ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-659

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 29, 2004

Codification District of Columbia Official Code

2001 Edition

2005 Winter Supp.

West Group Publisher

To amend, on an emergency basis, due to Congressional review, An Act To fix and regulate the salaries of teachers, school officers, and other employees of the board of education of the District of Columbia to sunset the hybrid Board of Education by January 2, 2009, to re-establish a Board structure in which 8 Board members are elected from each ward, one member is elected at-large, and the president is selected by and from among the 9 Board members, to provide that all Board member terms shall expire on January 2 of the appropriate year, to provide that the terms of the 2 board members appointed for terms to begin January 2, 2007, shall expire at noon January 2, 2009, to provide that the terms of the 2 members of the Board of Education elected in 2006 from School Districts III and IV, and the President elected in 2006, shall expire on January 2, 2009; and to amend the District of Columbia Election Code of 1955 to make conforming amendments.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Board of Education Continuity and Transition Second Congressional Review Emergency Amendment Act of 2004".

Note, § 38-101

Sec. 2. Section 2 of An Act To fix and regulate the salaries of teachers, school officers, and other employees of the board of education of the District of Columbia, approved June 20, 1906 (34 Stat. 316; D.C. Official Code § 38-101 *et seq.*), is amended as follows:

(a) Subsection (a) is amended to read as follows:

"(a)(1) Beginning July 7, 2000, and ending at noon January 2, 2009, the Board of Education shall consist of 9 members. Four members shall be appointed by the Mayor and confirmed by the Council. Five members shall be elected. Four of the 5 elected members shall be elected from the 4 school districts created pursuant to paragraph (2) of this subsection. One member shall be elected at-large as the president of the Board.

"(2) Beginning July 7, 2000, and ending at noon January 2, 2009, the 4 school districts for the election of Board members pursuant to paragraph (1) of this subsection, shall be comprised of the 8 election wards created pursuant to section 2 of the Boundaries Act of 1975,

effective December 16, 1975 (D.C. Law 1-38; D.C. Official Code § 1-1011.01), as follows:

"(A) Wards 1 and 2 shall comprise School District I;

"(B) Wards 3 and 4 shall comprise School District II;

"(C) Wards 5 and 6 shall comprise School District III; and

"(D) Wards 7 and 8 shall comprise School District IV.

"(3) Beginning January 2, 2009, the Board of Education shall consist of 9 members. One member shall be elected from each of the 8 school election wards established pursuant to section 2 of the Boundaries Act of 1975, effective December 16, 1975 (D.C. Law 1-38; D.C. Official Code § 1-1011.01), and one member shall be elected at-large. The Board shall select its President from among the 9 members of the Board.".

(b) Subsection (b) is amended as follows:

(1) Paragraph (1) is amended as follows:

(A) Strike the phrase "paragraph (3)(C) and (3)(D)" and insert the phrase "paragraph (3)(C), (E), and (F)" in its place.

(B) Strike the phrase "including the President" and insert the phrase "including the at-large member" in its place.

(2) Paragraph (3) is amended as follows:

(A) Subparagraph (A) is amended to read as follows:

"(A)(i) The term of office of a member of the Board of Education elected in a general election shall commence on January 2 of the year following the election. The term of office of an incumbent member of the Board shall expire at noon January 2 of the year following the general election.

"(ii) The term of a member elected from a school district or appointed pursuant to subsection (a)(1) of this section shall expire at noon January 2, 2009.".

(B) Subparagraph (D) is repealed.

(C) New subparagraphs (E) and (F) are added to read as follows:

"(E)(i) The 2 members of the Board of Education elected in 2006 from School Districts III and IV and the President elected in 2006 shall serve through January 2, 2009.

"(ii) The 2 members of the Board of Education appointed by the Mayor and confirmed by the Council for terms to begin January 2, 2007, shall serve through January 2, 2009.

"(F) The initial terms of the members of the Board of Education elected in the general election in November 2008 shall be as follows:

"(i) The 4 members elected from wards 1, 3, 5, and 7 shall serve 2 year terms, ending at noon January 2, 2011; and

"(ii) The 4 members elected from wards 2, 4, 6 and 8 and the member elected at-large shall serve 4 year terms, ending at noon January 2, 2013.".

(c) Subsection (c)(1) is amended by adding the phrase "or ward" after the phrase

"special school district".

(d) Subsection (f) is amended by striking the phrase "subsection (b)(3)(C)" and inserting the phrase "subsection (b)(3)(C) and (E)" in its place.

Note, § 1-1001.08

Sec. 3. Section 8(n) of the District of Columbia Election Code of 1955, approved August 12, 1955 (69 Stat. 699; D.C. Official Code § 1-1001.08(n)), is amended by adding the phrase "or ward" after the phrase "school district" wherever it appears.

Sec. 4. Applicability.

This act shall apply as of December 27, 2004.

Sec. 5. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-233(c)(3)).

Sec. 6. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
December 29, 2004

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-680

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 29, 2004

Codification District of Columbia Official Code

2001 Edition

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West Group Publisher

To amend the District of Columbia Revenue Act of 1937 to authorize rules of procedure to provide for the suspension or revocation of a registration issued to an owner or dealer who provides or obtains a counterfeit, stolen, or otherwise fraudulent temporary identification tag, to provide for the forfeiture of a motor vehicle knowingly used with a counterfeit, stolen, or otherwise fraudulent temporary identification tag, to increase the maximum fine for a violation from $300 to $1000, and to provide due process protection to a person claiming an interest in a motor vehicle seized or forfeited pursuant to this act.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Use of Fraudulent Temporary Identification Tags and Automobile Forfeiture Amendment Act of 2004".

Sec. 2. The District of Columbia Revenue Act of 1937, approved August 17, 1937 (50 Stat. 679; D.C. Official Code § 50-1501.01 *et seq.),* is amended as follows:

(a) Section 2(g) (D.C. Official Code § 50-1501.02(g)) is amended as follows:

Amend § 50-1501.02

(1) Paragraph (2) is amended by striking the phrase ""DCMR; and" and inserting the phrase "DCMR, or who knowingly provides or obtains a counterfeit, stolen, or otherwise fraudulent temporary identification tag; and" in its place.

(2) Paragraph (3) is amended by adding a new subparagraph (C) to read as follows:

"(C) To establish procedures for the seizure and forfeiture of a motor vehicle used with a counterfeit, stolen, or otherwise fraudulent temporary identification tag.".

(b) Section 4 (D.C. Official Code § 50-1501.04) is amended as follows:

Amend § 50-1501.04

(1) Subsection (a) is amended by adding a new paragraph (4) to read as follows:

"(4) For the owner of any motor vehicle to knowingly use or permit the use of any motor vehicle with a counterfeit, stolen, or otherwise fraudulent temporary identification tag.".

(2) Subsection (b) is amended as follows:

(A) Designate the existing text as paragraph (1).

(B) Strike the figure "$300" and insert the figure "$1000" in its place.

(C) Add a new paragraph (2) to read as follows:

"(2) A motor vehicle being used in violation of subsection (a)(4) of this section shall be subject to seizure by the Mayor or any law enforcement officer of the District and to forfeiture to the District in accordance with to 6A DCMR §§ 805-810; such seizure and forfeiture may be in addition to the imposition of a fine or imprisonment as provided for in paragraph (1) of this subsection.".

Sec. 3. The Mayor is authorized to promulgate such rules and regulations as are necessary to carry out the purposes of this act.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D. C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Linda W. Cropp

Chairman
Council of the District of Columbia

Anthony A. Williams

Mayor
District of Columbia
APPROVED
December 29, 2004

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-681

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 29, 2004

Codification District of Columbia Official Code

2001 Edition

2005 Winter Supp.

West Group Publisher

To amend the District of Columbia Procurement Practices Act of 1985 to establish new reporting requirements for the tracking of purchase card expenditures and interest penalty payments.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "District of Columbia Government Purchase Card Program Reporting Requirements Amendment Act of 2004".

Sec. 2. The District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code § 2-301.01 *et seq.*), is amended by adding a new section 322 to read as follows:

"Sec. 322. Purchase card reporting requirement.

"(a) For the purposes of this section, the term "purchase card" means a commercial credit or debit card issued to District government employees for the purpose of procuring goods and service.

"(b) The Mayor shall submit to the Council a quarterly report by agency of all expenditures in the purchase card program for each quarter of the fiscal year. The quarterly report shall include the:

"(1) Total purchase card budget for each agency;

"(2) Fiscal year-to-date total purchase card expenditures by agency as a percentage of the total agency purchase card budget;

"(3) Total unverified purchase card expenditures within each agency by object class and employee;

"(4) Total purchase card expenditures approved by agency heads; and

"(5) Total disapproved purchase card expenditures disapproved by agency, agency head, and employee.

"(c) The provisions of this section shall apply to all agencies that participate in the purchase card program instituted by the Office of Contracting and Procurement.".

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Linda W. Cropp
Chairman
Council of the District of Columbia

Anthony A. Williams
Mayor
District of Columbia
APPROVED
December 29, 2004

FEB 18 2005

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-682

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 4, 2005

Codification District of Columbia Official Code

2001 Edition

2005 Winter Supp.

West Group Publisher

To amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978, to make April 16th, the District of Columbia Emancipation Day, a recognized legal public holiday.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "District of Columbia Emancipation Day Amendment Act of 2004".

Sec. 2. The Council finds that:

(1) When President Lincoln signed An Act for the Release of certain Persons held to Service or Labor in the District of Columbia ("District of Columbia Emancipation Act") on April 16, 1862, freeing all slaves in the District, the law provided for immediate emancipation, compensation of up to $300 for each slave to loyal Unionist masters, voluntary colonization of former slaves to colonies outside the United States, and payments of up to $100 to each former slave choosing emigration. The federal government paid almost $1 million for the freedom of approximately 3,100 former slaves.

(2) It is important to the descendants of those free blacks and slaves, and to all other citizens in the District that this important moment in our country's and the District's history be formally recognized by the District.

(3) June 19, 1865 ("Juneteenth"), the day that the last slaves in the state of Texas were notified that President Lincoln had signed the Emancipation Proclamation on January 1, 1863, is celebrated annually in more than 205 cities and is a legal state holiday in Texas, Oklahoma, Florida, Delaware, and Iowa.

(4) In 1997, the United States Senate adopted a joint resolution recognizing Juneteenth as the true independence day for African-American citizens.

(5) The legal public holiday of the District of Columbia Emancipation Day would commemorate and celebrate April 16, 1862 as the day President Lincoln signed the District of Columbia Emancipation Act ending slavery in the District of Columbia, 9 months before the signing of the Emancipation Proclamation on January 1, 1863. The District of

Columbia Emancipation Day will symbolize for Americans the triumph of the human spirit over the cruelty of slavery.

Amend § 1-612.02

Sec. 3. Section 1202 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code §1-612.02(c)), is amended as follows:

(a) The existing text is designated as paragraph (1).

(b) A new paragraph (2) is added to read as follows:

"(2) April 16 of each year starting in 2005 shall be District of Columbia Emancipation Day, which shall be a legal public holiday for the purpose of pay and leave of employees scheduled to work on that day; provided, that in 2005 and 2006, it shall be celebrated on the date of April 16 and not on the following Monday.".

Sec. 4. Sense of the Council.

It is the sense of the Council that the federal government should recognize the District of Columbia Emancipation Day. The Council urges Congresswoman Norton to introduce legislation in Congress to recognize this day.

Sec. 5. Fiscal impact statement.

The Council adopts the fiscal impact statement provided by the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-206.02(c)(3)).

Sec. 6. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved, December

ENROLLED ORIGINAL

24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia

APPROVED
January 4, 2005

FEB 18 2005

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-683

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 29, 2004

Codification District of Columbia Official Code

2001 Edition

2005 Winter Supp.

West Group Publisher

To amend the District of Columbia Procurement Practices Act of 1985 to modify the procedures for debarring or suspending a person or business from consideration for an award of District contracts or subcontracts, and to establish a Debarment and Suspension Panel to consider the best interests of the District in the consideration of each debarment or suspension action.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Debarment Procedures Amendment Act of 2004".

Amend § 2-308.04

Sec. 2. Section 804 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code § 2-308.04), is amended as follows:

(a) Subsections (a), (b), (b-1), (c), (d), (e), and (g) are amended by striking the phrase "CPO" wherever it appears and inserting the phrase "Debarment and Suspension Panel" in its place.

(b) Subsection (a) is amended as follows:

(1) Paragraph (1)(A) is amended by adding the phrase "or the present responsibility of the person or business is such that a debarment would not be warranted" before the final semicolon.

(2) Paragraph (3)(B) is amended by adding the phrase "unless the present responsibility of the person or business is such that a debarment would not be warranted" before the final period.

(c) Subsection (c) is amended as follows:

(1) Paragraph (1) is amended as follows:

(A) Add the phrase "the relevant facts and" after the word "State".

(B) Strike the word "and" after the semicolon.

(2) Add new paragraphs (1A) and (1B) to read as follows:

"(1A) Describe the present responsibility of the contractor;

"(1B) Describe whether the debarment is in the best interests of the District;

ENROLLED ORIGINAL

and".

(d) Add a new subsection (h) to read as follows:

"(h) For the purposes of this section, the phrase "Debarment and Suspension Panel" means a panel consisting of the Chief Procurement Officer and a representative from the Office of the Chief Financial Officer, the Office of the Deputy Mayor for Planning and Economic Development, the Deputy Mayor for Operations, the Director of the Office of Labor Relations and Collective Bargaining, and from each agency which, in the judgment of the Mayor, would be directly and significantly affected by the proposed debarment. The Mayor shall designate the members of the panel and the panel chair. Legal advice to the panel in its deliberations on debarment decisions shall be provided by the Office of the Corporation Counsel.".

Sec. 3. Fiscal impact statement.

The Council adopts the attached fiscal impact statement as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Linda W. Cropp

Chairman
Council of the District of Columbia

Anthony A. Williams

Mayor
District of Columbia
APPROVED
December 29, 2004

FEB 1 8 2005

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-684

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 29, 2004

Codification District of Columbia Official Code

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To amend the District of Columbia Traffic Act, 1925 and Title 18 of the District of Columbia Municipal Regulations to eliminate the road test exemption for a motorized bicycle license, to increase penalties for reckless driving, to prohibit the operation of an all-terrain vehicle or dirt bike on public property including any public space in the District; and to amend the District of Columbia Municipal Regulations to clarify that certain restrictions applicable to the use of motor vehicles also apply to the use of motorized bicycles.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Non-Traditional Motor Vehicles Safety Amendment Act of 2004".

Sec. 2. The District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1119; D.C. Official Code § 50-2201.01 *passim*), is amended as follows:

(a) Section 2 (D.C. Official Code § 50-2201.02) is amended by adding 2 new paragraphs (13) and (14) to read as follows:

Amend § 50-2201.02

"(13) The term "all-terrain vehicle" or "ATV" means any motor vehicle with not less than 3 low pressure tires, but not more than six low pressure tires, designed primarily for off-road use and which has a seat or saddle designed to be straddled by the operator. The terms "all-terrain vehicle" and "ATV"shall not include golf carts, riding lawnmowers, or tractors.

"(14) The term "dirt bike" means any motorcycle designed primarily for off-road use.".

(b) Section 7(a)(1)(B)(ii) (D.C. Official Code § 50-1401.01(a)(1)(B)(ii)) is amended by striking the phrase "Mayor. No practical demonstration shall be required for a motorized bicycle permit; and" and inserting the phrase "Mayor; and" in its place.

Amend § 50-1401.01

(c) Section 9(c) (D.C. Official Code § 50-2201.04(c)) is amended to read as follows:

Amend § 50-2201.04

"(c) Any individual violating any provision of this section where the offense constitutes reckless driving shall upon conviction for the 1st offense be fined not more than $500 or imprisoned not more than 3 months, or both; upon conviction for the 2nd offense committed within a 2-year period shall be fined not more than $1,000 or imprisoned not more than 1 year, or both; and upon conviction for the 3rd or any subsequent offense committed within a 2-year period of the 1st offense shall be fined not more than $3,000 or imprisoned not more than 1 year, or both.".

(d) A new section 9b is added to read as follows:

"Sec. 9b. Operation of all-terrain vehicles and dirt bikes.

"(a) No person shall operate at any time an all-terrain vehicle or dirt bike on public property including any public space in the District.

"(b) All-terrain vehicles or dirt bikes shall not be registered with the Department of Motor Vehicles.

"(c) Any individual violating any provision of this section shall upon conviction be fined not more than $1,000 or imprisoned not more than 30 days, or both. All such prosecutions shall be in the Superior Court of the District of Columbia upon information filed by the Attorney General of the District of Columbia or any of his assistants in the name of the District of Columbia.".

Sec. 3. Title 18 of the District of Columbia Municipal Regulations (Vehicles and Traffic) is amended as follows: DCMR

(a) Chapter 1 is amended as follows:

(1) Section 104.3 is amended by striking the phrase "Provided, that no demonstration shall be required for a motorized bicycle license".

(2) Sections 107.14 and 107.15 are repealed.

(b) Section 601.7 is amended by striking the phrase "three (3)" and inserting the phrase "two (2)" in its place.

(c) Section 1201.17 is amended to read as follows:

"1201.17 All provisions of this section shall be equally applicable to the operation and riding of motorized bicycles, except as specifically provided in this chapter; provided, that nothing in this chapter shall be construed as to limit the applicability of Chapters 1, 4, 5, 6, and 7 with respect to the licensing, registration, inspection, or equipment of motorized bicycles or motorcycles.".

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 812; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

ENROLLED ORIGINAL

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
December 29, 2004

FEB 18 2005

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-685

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 4, 2005

Codification District of Columbia Official Code

2001 Edition

2005 Winter Supp.

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To amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to establish a time period for the District to begin payment of compensable claims and furnish medical services; to establish a time period in which injuries must be reported by District agencies; to establish a time period for utilization review decisions, to allow a claimant to appeal a utilization review decision, and to require that the medical opinion of a treating physician be accorded great weight; to establish a time period for the District to complete its investigation of an alleged injury; to establish the criteria for modifying a compensation award; to establish a time period to decide a reconsideration request and to require payment pending the reconsideration upon failure to make a timely investigation or determination.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Disability Compensation Effective Administration Amendment Act of 2004".

Sec. 2. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-623.01 *et seq.*), is amended as follows:

Amend § 1-623.03

(a) Section 2303 (D.C. Official Code § 1-623.03) is amended by adding new subsections (e) and (f) to read as follows:

"(e) The District government shall furnish or authorize payment for services, appliances, supplies, and reasonable transportation and expenses incidental thereto, to the injured employee within 30 days after the Mayor or his or her designee receives notice that the employee has been injured while in the performance of duty.

"(f) The Mayor or his or her designee shall provide a claimant with written authorization for payment for any treatment or procedure within 30 days after the treating physician makes a written request to the Mayor or his or her designee for this authorization. If the Mayor or his or her designee fails to provide written authorization to the claimant within 30 days of the request, the treatment or procedure shall be deemed authorized, unless the Mayor or his or her designee

commences a utilization review pursuant to section 2323(a-2) within 30 days of the request.".

(b) Section 2319 (D.C. Official Code § 1-623.19) is amended as follows: Amend § 1-623.19

(1) Designate the existing text as subsection (a).

(2) New subsections (b) and (c) are added to read as follows:

"(b) Failure to give the notice shall not bar any claim under this act if:

"(1) The employer or the Disability Compensation Fund had actual knowledge of the injury or death and its relationship to the employment and the employer has not been prejudiced by failure to give the notice;

"(2) The Mayor or his or her designee excuses the failure on the ground that for some satisfactory reason the notice could not be given; or

"(3) Objection to the failure is raised before the Mayor at the first hearing of a claim for compensation relating to the injury or death at the Department of Employment Services.

"(c) The time limitations in this section shall not apply to:

"(1) A minor until he or she reaches 21 years of age or has had a legal representative appointed; or

"(2) An incompetent individual while he or she is incompetent and has no duly appointed legal representative.".

(c) Section 2320 (D.C. Official Code § 1-623.20) is amended as follows: Amend § 1-623.20

(1) Redesignate the existing text as subsection (a) and amend the text to read as follows:

"(a) The immediate superior of an employee shall report to the Mayor an injury to the employee that results in his or her death or probable injury within 3 days from the date of the injury or death or the date that the superior has knowledge of the injury, whichever is earlier.".

(2) A new subsection (b) is added to read as follows:

"(b) Notwithstanding section 2324(a)(1), failure of a superior to report an injury or death shall not impair a claimant's right to compensation. The Mayor may:

"(1) Prescribe the information that the report shall contain;

"(2) Require the immediate superior to make supplemental reports; and

"(3) Obtain such additional reports and information from employees as are agreed on by the Mayor and the head of the employing agency.".

(d) Section 2323(a-2) (D.C. Official Code § 1-623.23(a-2)) is amended as follows: Amend § 1-623.23

(1) Add 2 sentences at the end of the second lead-in sentence to read as follows:

"A decision on the medical care or service to the employee shall be made by the utilization review organization or individual within 60 days after the utilization review is requested. If the utilization review is not completed within 120 days of the request, the care or service under review shall be deemed approved. If the Mayor denies medical care or service because the medical care provider or claimant has not provided enough information for the utilization review process, the provider or claimant may request approval for the medical care or service again by providing new information.".

(2) Paragraph (3) is amended as follows:

(A) Add the phrase "or employee" after the phrase "If the medical care provider".

(B) Add the phrase ", or employee" after the phrase "individual, the medical care provider".

(3) Paragraph (4) is amended by adding a new sentence after the second sentence to read as follows:

"In all medical opinions used under this section, the diagnosis or medical opinion of the employee's treating physician shall be accorded great weight over other opinions, absent compelling reasons to the contrary.".

(e) Section 2324 (D.C. Official Code § 1-623.24) is amended as follows: Amend § 1-623.24

(1) Subsection (a) is amended to read as follows:

"(a) The Mayor or his or her designee shall determine and make a finding of facts and an award for or against payment of compensation under this subtitle within 30 days after the claim was filed based on the following guidelines:

"(1) The claim presented by the beneficiary and the report furnished by the employee's immediate superior; and

"(2) Any investigation as the Mayor or his or her designee considers necessary, provided that the investigation shall not extend beyond 30 days from the date that the Mayor received the report of the injury.".

(2) New subsections (a-1), (a-2), (a-3), and (a-4) are added to read as follows:

"(a-1) Failure of an employee's immediate superior to report an injury shall not prejudice a claimant's right to benefits, nor relieve the Mayor or his or her designee of the duty to make a finding of facts and an award for or against payment of compensation within 30 days after the date the claim was filed.".

"(a-2) Failure of the Mayor or his or her designee to complete an investigation under subsection (a) of this section shall not prejudice a claimant's right to benefits.

"(a-3)(1) If the Mayor or his or her designee fails to make a finding of facts and an award for or against payment of compensation within 30 calendar days, the claim shall be deemed accepted, and the Mayor or his or her designee shall commence payment of compensation on the 31st day following the date the claim was filed. This section shall not apply if the Mayor provides notice in writing that extenuating circumstances preclude the Mayor from making a decision within this period, which shall include supporting documentation stating the reasons why a finding of facts and an award for or against compensation cannot be made within this period.

"(2) If after the commencement of payment, the Mayor makes a determination against payment of compensation, payment shall cease; provided, that the Mayor or his or her designee may recoup benefits under section 2329. The claimant shall not be required to repay monies received until all administrative remedies to the Department of Employment Service have been exhausted under subsection (b) of this section and under section 2328.

"(a-4) (1) A claimant who disagrees with a decision of the Mayor or his or her designee under subsection (a) of this section shall have the right to request reconsideration of that decision within 30 days after the issuance of the decision. The request shall be written and contain reasonable medical or factual justification for the reconsideration.

"(2) The Mayor or his or her designee shall provide a written decision on the reconsideration request within 30 days of receipt of the request. If the Mayor or his or her designee fails to make a written reconsideration decision within this period, the claim shall be deemed accepted, and payment of compensation to the claimant shall commence on the 31st day following the date the request was filed. If the Mayor or his or her designee later makes an award against payment of compensation, payment shall cease immediately; provided, that the Mayor or his or her designee may only recoup benefits in accordance with section 2329, and not until all administrative remedies to the Department of Employment Service have been exhausted under subsection (b) of this section and section 2328.

"(3) A claimant who disagrees with a decision of the Mayor or his or her designee under subsection (a) of this section may waive reconsideration under this subsection, and request a hearing under subsection (b) of this section.

(3) Subsection (b) is amended by adding a new paragraph (3) to read as follows:

"(3) The Mayor or his or her designee shall begin payment of compensation to the claimant within 30 days after the date of an order from the Department of Employment Services Administrative Law Judge.".

(4) Subsection (d) is amended to read as follows:

"(d)(1) "The Mayor may modify an award of compensation if the Mayor or his or her designee has reason to believe a change of condition has occurred. The modification shall be made in accordance with the standards and procedures as follows:

"(A) The Mayor shall provide written notice to the claimant of the proposed modification with the supportive documentation relied upon for the modification;

("B) The claimant shall have at least 30 days to provide the Mayor with written information as to why the proposed modification is not justified; and

"(C) The Mayor shall conduct a full review of the reasons for the proposed modification and the arguments and information provided by the claimant.

"(2) If the Mayor determines that modification of the award is required, the Mayor shall provide written notice to the claimant of the modification, including the reasons for the modification and the claimant's right to seek review of that decision under subsection (b) of this section.

"(3) The Mayor may not modify benefits until requirements under this subsection have been completed, or until any deadline established by the Mayor for the submission of additional information has expired, whichever is later, except that the following modifications may be made contemporaneously with the provision of a notice under this subsection:

"(A) The award of compensation was for a specific period of time which

has expired;

"(B) The death of the claimant;

"(C) The claimant has returned to work based upon clear evidence;

"(D) The claimant has been convicted of fraud in connection with the claim; or

"(E) Payment of compensation has been suspended due to the claimant's failure to participate in vocational rehabilitation or cooperate with the Mayor's request for a physical examination.

"(4) An award for compensation may not be modified because of a change to the claimant's condition unless:

"(A) The disability for which compensation was paid has ceased or lessened;

"(B) The disabling condition is no longer causally related to the employment;

"(C) The claimant's condition has changed from a total disability to a partial disability;

"(D) The employee has returned to work on a full-time or part-time basis other than vocational rehabilitation under section 2304; or

"(E) The Mayor or his or her designee determines based upon strong compelling evidence that the initial decision was in error.".

(5) New subsections (e) and (f) are added to read as follows:

"(e) The Mayor shall provide a claimant and his or her attorney with access to the claimant's file within 5 business days after a request to review the file is made. The claimant shall be provided, upon request, with one set of copies of the documents in the file.

"(f) A claimant who is not satisfied with a decision under subsection (d) of this section may, within 30 days after the issuance of a decision, request a hearing on the claim before a Department of Employment Services Disability Compensation Administrative Law Judge under subsection (b) of this section.".

(f) Section 2329 (D.C. Official Code § 1-623.29) is amended as follows: **Amend § 1-623.29**

(1) A new subsection (a-1) is added to read as follows:

"(a-1) Before seeking to recover an overpayment or adjust benefits, the District government shall advise the individual in writing:

"(1) That the overpayment exists, and the amount of the overpayment;

"(2) That a preliminary finding shows that the individual either was or was not at fault in the creation of the overpayment;

"(3) That the individual has the right to inspect and copy government records relating to the overpayment; and

"(4) That the individual has the right to request a waiver of the adjustment or recovery and to present evidence that challenges the fact or amount of the overpayment or the preliminary finding that he or she was at fault in the creation of the overpayment.".

(2) Subsection (b) is amended to read as follows:

"(b)(1) Adjustment or recovery by the District government shall be waived when incorrect payment has been made to an individual who is without fault and recovery would defeat the purpose of this act or would be against equity and good conscience.

"(2)(A) For the purposes of this subsection:

"(i) The term "at fault" means that an individual has made an incorrect statement as to a material fact that he or she knew or should have known to be incorrect; failed to provide information which he or she knew or should have known to be material; or accepted a payment which he or she knew or should have known to be incorrect.

"(ii) The term "without fault" means an individual is receiving benefits pursuant to a good faith dispute as to whether his or her medical condition entitles him or her to receive those benefits.

"(iii) The phrase "recovery would defeat the purpose of this act" means that recovery would cause hardship to a current or former claimant or other beneficiary because he or she needs substantially all of his or her current income, including compensation to meet current ordinary and necessary living expenses which shall include:

"(I) Fixed living expenses such as food, housing, utilities, maintenance, insurance, and taxes;

"(II) Medical, hospitalization, and related expenses;

"(III) Expenses for the support of others for whom the individual is legally responsible; and

"(IV) Expenses that may be reasonably considered as part of the individual's standard of living.

"(iv) The phrase "against equity and good conscience" means that recovery would cause severe financial hardship to an individual to make the overpayment.

"(B) The determination of whether an individual was at fault regarding an overpayment shall depend upon the totality of circumstances surrounding the overpayment including the complexity of those circumstances and the individual's capacity to realize that he or she is being overpaid. The government shall consider all pertinent circumstances including the individual's age, intelligence, and any physical, mental, educational, or linguistic limitations including any difficulty with the English language.".

(3) A new subsection (b-1) is added to read as follows:

"(b-1)(1) Before the District government may seek to recover an overpayment or adjust benefits, the government must allow the individual the opportunity to present evidence to the government in writing or at a pre-recoupment hearing. The evidence must be presented or the hearing requested within 30 days of the date of the written notice of the overpayment. The 30-day requirement can be waived for good cause including mental or physical incapacity of the individual or lack of timely receipt of the notice of adjustment or recoupment.

"(2) An individual shall be required to provide relevant information and documentation to support his or her claim of severe financial hardship or that the individual

needs substantially all of his or her current income to meet current ordinary and necessary living expenses. Failure to submit the requested information within 30 days of the request shall result in denial of a request for a waiver and no further request for a waiver shall be considered until the requested information is furnished.".

(g) Section 2341 (D.C. Official Code § 1-623.41) is amended to read as follows: Amend § 1-623.41

"On or after April 1, 1990, the Mayor shall award cost-of-living increases in compensation for disability or death whenever a cost-of-living increase is awarded pursuant to sections 1105 and 1106. The percentage amount and effective date of those increases shall be the same as for any increase granted under these sections. This section shall not apply to any collective bargaining agreements that are to the contrary.".

(h) Section 2344 (D.C. Official Code § 1-623.44) is amended to read as follows: Amend § 1-623.44

"Sec. 2344. Rules and regulations.

"The Mayor shall promulgate regulations that explain the standards and procedures that govern determinations for the modification of an award of compensation. An award may be modified only in accordance with those regulations which shall include the following criteria relating to:

"(1) Exchange of information including a claimant's opportunity to provide medical, vocational, or other information to the Mayor prior to a modification of benefits;

"(2) Modification procedures including the manner and content of notices to a claimant concerning a proposed modification;

"(3) The procedures for providing additional information concerning a claim, the type of information that may be submitted, and the manner in which all information will be considered;

"(4) When a modification may properly be made, and the manner of notice to a claimant of the final decision.

"(5) Physical examinations including the weight that shall be given to competing medical reports;

"(6) File access including the manner in which a claimant or his or her attorney may request access to the claimant's file;

"(7) Standard of review including the standard applicable to a modification process or appeal under this act;

"(8) Deadlines and extensions applicable to claimants and the Mayor, which also shall provide that a claimant's failure to miss a deadline will be excused when good cause is found, a definition of "good cause", and the procedures for determining whether good cause exists; and

"(9) Bases for modification including the legal bases upon which an award of compensation may be modified and the standards to determine whether a claimant's change of condition would justify the modification.".

(i) Section 2345(b)(1) and (2) (D.C. Official Code § 1-623.45(b)(1) and (2)) are amended to read as follows: Amend § 1-623.45

"(1) Immediately and unconditionally accord the employee the right to resume his or her former, or an equivalent, position as well as all other attendant rights which the employee would have had or acquired in his or her former position had he or she not been injured or disabled, including the rights to tenure, promotion, and safeguards in reduction-in-force procedures, provided that the injury or disability has been overcome within one year after the date of commencement of compensation or from the time compensable disability recurs if the recurrence begins after the injured employee resumes regular full-time employment with the District of Columbia government; or

"(2) If the injury or disability is overcome within a period of more than 2 years after the date of commencement of payment of compensation or the provision of medical treatment by the Disability Compensation Fund, make all reasonable efforts to place, and accord priority to placing the employee in his or her former or equivalent position within such department or agency, or within any other department or agency.".

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 2, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of a veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.2(c)(1)), and publication in the District of Columbia Register.

Linda W. Cropp
Chairman
Council of the District of Columbia

Anthony A. Williams
Mayor
District of Columbia
APPROVED
January 4, 2005

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-686

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 29, 2004

Codification District of Columbia Official Code

2001 Edition

2005 Winter Supp.

West Group Publisher

To amend the District of Columbia Cancer Prevention Act of 1990 to provide that benefits provided are not subject to co-payments and coinsurance and to clarify that the coinsurance or co-payments are applicable to the office visit not the baseline mammogram, annual screening mammogram, annual cervical cytologic screening, and cervical cytologic screening certified by an attending physician as being necessary.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Cancer Prevention Amendment Act of 2004".

Amend § 31-2902

Sec. 2. Section 3 of the District of Columbia Cancer Prevention Act of 1990, effective March 7, 1991 (D.C. Law 8-225; D.C. Official Code § 31-2902), is amended by adding new subsections (d), (e), and (f) to read as follows:

"(d) Benefits provided in accordance with this section shall not be subject to a co-payment except when an enrollee or subscriber elects to have a baseline mammogram, annual screening mammogram, annual cervical cytologic screening, and a cervical cytologic screening certified by an attending physician as being necessary, performed by an out-of-network provider in a preferred provider plan.

"(e) Co-payments and coinsurance may be applicable to the enrollee's or subscriber's office visit.

"(f) Subsections (d) and (e) of this section shall apply:

"(1) To any insurance policy or subscriber contract delivered or issued for delivery in the District more than 120 days after the effective date of the Cancer Prevention Amendment Act, passed on 2nd reading on December 7, 2004 (Enrolled version of Bill 15-815); and

"(2) To any insurance policy or subscriber contract renewed, amended, or reissued 120 days after the effective date of the Cancer Prevention Amendment Act, passed on 2nd reading on December 7, 2004 (Enrolled version of Bill 15-815).".

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973. (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Linda W. Cropp

Chairman
Council of the District of Columbia

Anthony A. Williams

Mayor
District of Columbia
APPROVED
December 29, 2004

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-687

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 29, 2004

Codification District of Columbia Official Code

2001 Edition

2005 Winter Supp.

West Group Publisher

To establish general procedures for the orderly voluntary withdrawal from the health benefit plan market by carriers licensed in the District of Columbia.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Procedures for the Voluntary Withdrawal from the Market by Carriers Licensed in the District of Columbia to Sell Health Benefit Plans Act of 2004".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Application" means a carrier's application pursuant to this act for approval to voluntarily withdraw from the District of Columbia health insurance market.

(2) "Carrier" means any person or organization subject to the authority of the Commissioner that provides one or more health benefit plans in the District of Columbia, and includes an insurer, a hospital and medical services corporation, a fraternal benefit society, a health maintenance organization, or multiple employer welfare arrangement.

(3) "Commissioner" means the Commissioner of the Department of Insurance, Securities, and Banking.

(4) "Health benefit plan" means any accident and health insurance policy or certificate, hospital and medical services corporation contract, health maintenance organization subscriber contract, a plan provided by a multiple employer welfare arrangement, or a plan provided by another benefit arrangement. The term "health benefit plan" does not mean accident only, credit, or disability insurance; coverage of Medicare services or federal employee health plans, pursuant to contracts with the United States government; Medicare supplement or long-term care insurance; dental only or vision only insurance; specified disease insurance; hospital confinement indemnity coverage; limited benefit health coverage; coverage issued as a supplement to liability insurance; insurance arising out of a workers' compensation or similar law; automobile medical payment insurance; medical expense and loss of income benefits; or insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(5) "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, approved August 21, 1996 (110 Stat. 1936; scattered sections of the United States Code).

(6) "Medicare" means the health insurance program established pursuant to the Health Insurance for the Aged Act, approved July 30, 1965 (79 Stat. 290; 42 U.S.C. § 401 *et seq.*).

(7) "Withdraw" means the full cessation of underwriting insurance policies, including the nonrenewal of existing insurance policies, relative to any line of business or any subgroup thereof, including individual accounts.

Sec. 3. Procedures for voluntary withdrawal by carriers.

(a) A carrier shall give the Commissioner written notice, prior to notifying the members of the health benefit plan, of its intent to discontinue the offering of all health benefit plans in the District of Columbia and shall submit to the Commissioner an application with the following information:

(1) The name of the carrier;

(2) The name, address, telephone number, and facsimile number of the carrier's representative responsible for the activities pertaining to withdrawing from the District of Columbia health insurance market;

(3) A specific description of the reasons the carrier is withdrawing its health benefit plans from the District of Columbia health insurance market;

(4) A statement of the number of in-force policies affected by the withdrawal;

(5) A copy of the nonrenewal notice, which complies with HIPAA, that the carrier will send to its enrollees and dependents once its application is approved; and

(6) Any other information or documentation that the Commissioner considers relevant and appropriate in connection with the carrier ceasing to offer a health benefit plan in the District of Columbia.

(b) The carrier shall obtain prior approval of its application from the Commissioner before it commences to voluntarily withdraw from the District of Columbia health insurance market.

(c) The Commissioner shall complete his or her review of the application submitted by the carrier to withdraw from the District of Columbia health insurance market within 60 days after receipt of all requested documentation.

(d) To ensure that health care services will be available and accessible to all group and nongroup policyholders of a withdrawing carrier, the Commissioner may allocate the group and nongroup contracts among other carriers in a similar manner as provided in section 15 of the Health Maintenance Organization Act of 1996, effective April 9, 1997 (D.C. Law 11-235; D.C. Official Code § 31-3414).

(e) The Commissioner may condition his or her approval of the carrier's application upon the terms and conditions as are necessary for the protection of the carrier's policyholders, its creditors, or the public interest.

Sec. 4. Judicial review; mandamus.

(a) Any carrier aggrieved by any act, determination, rule, regulation, or order or any other action of the Commissioner pursuant to this act, and which was the subject of a contested case, may appeal to the District of Columbia Court of Appeals, in accordance with section 11 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1209; D.C. Official Code § 2-510).

(b) The filing of an appeal pursuant to this section shall not stay the application of any rule, regulation, order, or other action of the Commissioner to the appealing party unless the court, after giving the appealing party notice and an opportunity to be heard, determines that failure to grant the stay would be detrimental to the interest of policyholders, shareholders, creditors, or the public.

(c) Any carrier aggrieved by any failure of the Commissioner to act or make a determination required by this act may petition the Superior Court of the District of Columbia for a writ in the nature of a mandamus or a peremptory mandamus directing the Commissioner to act or make the determination forthwith.

Sec. 5. Regulations.

The Commissioner may promulgate rules and regulations necessary to implement the provisions of this act, including provisions for the disposal of books of business.

Sec. 6. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 7. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act,

approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
December 29, 2004

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-688

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 29, 2004

Codification District of Columbia Official Code

2001 Edition

2005 Winter Supp.

West Group Publisher

To amend the Fire and Casualty Act to provide the Commissioner of the Department of Insurance, Securities, and Banking with the legal authority to make necessary rules and regulations to implement the act.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Fire and Casualty Amendment Act of 2004".

Amend § 2-505

Sec. 2. Section 1(b) of the Fire and Casualty Act, approved October 9, 1940 (54 Stat. 1066; D.C. Official Code § 31-2502.01(b)), is amended to read as follows:

"(b) The Commissioner may, in accordance section 6 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505), promulgate reasonable rules and regulations as are necessary to implement the provisions of this act.".

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

ENROLLED ORIGINAL

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
December 29, 2004

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-689

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 4, 2004

Codification District of Columbia Official Code

2001 Edition

2005 Winter Supp.

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To provide for payments in lieu of taxes for the purpose of financing any project which qualifies under section 490 of the Home Rule Act or for any other use which will be deemed to contribute to the health, education, safety, or welfare of, or the creation or preservation of jobs for, residents of the District, or to economic development of the District, including the development, redevelopment, and expansion of business, commerce, housing, or tourism, or the provision of necessary or desirable public infrastructure improvements; to amend the District of Columbia Deed and Recordation Tax Act to ensure the collection of recordation taxes on properties exempted from property tax under agreements entered into pursuant to this legislation; to amend section 47-902 of the District of Columbia Official Code to ensure there is the collection of deed transfer taxes on properties exempted from property tax under agreements entered into pursuant to this legislation; and to amend section 47-1002 of the District of Columbia Official Code to exempt from real property taxation real property, including the land, any improvements thereon, and any possessory interests therein, for which payments in lieu of taxes are being made under a PILOT agreement.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Payments In Lieu of Taxes Act of 2004".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Bonds" means any bonds, notes, or other instruments issued by the District pursuant to section 490 of the Home Rule Act and secured by payments in lieu of taxes or other security authorized by this act.

(2) "Development costs" means all costs and expenses relating to the development, redevelopment, purchase, acquisition, protection, financing, construction, expansion, reconstruction, restoration, rehabilitation, renovation and repair, and the furnishing, equipping, and operating of a project, including:

(A) The purchase or lease expense for land, structures, real or personal property, rights, rights-of-way, roads, franchises, easements, and interests acquired or used for,

or in connection with, the project and costs of demolishing or removing buildings or structures on land so acquired;

(B) Expenses incurred for utility lines, structures, or equipment charges;

(C) Interest prior to, and during, construction, and for a period as may be necessary for the operation of a project;

(D) Provisions for reserves for principal and interest for extensions, enlargements, additions, improvements, and extraordinary repairs and replacements;

(E) Expenses incurred for architectural, engineering, energy efficiency technology, design and consulting, financial, and legal services;

(F) Fees for letters of credit, bond insurance, debt service reserve insurance, surety bonds, or similar credit or liquidity enhancement instruments;

(G) Costs and expenses associated with the conduct and preparation of specification and feasibility studies, plans, surveys, historic structure reports, and estimates of expenses and revenues;

(H) Expenses necessary or incident to issuing Bonds and determining the feasibility and the fiscal impact of financing the acquisition, construction, or development of a project; and

(I) The provision of a proper allowance for contingencies and initial working capital.

(3) "Home Rule Act" means the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 777; D.C. Official Code § 1-201.01 *et seq.*).

(4) "Owner" means, with respect to the PILOT parcel, the owner of a fee simple or a possessory interest.

(5) "Payments in lieu of taxes" or "PILOT" means payments made with respect to a PILOT parcel for a PILOT period in lieu of real property taxes.

(6) "PILOT agreement" means a written agreement between the District and the owner of a PILOT parcel providing for payments in lieu of taxes for the purpose of financing one or more projects or for other authorized uses as provided under this act.

(7) "PILOT parcel" means a tax lot or lots (or a portion thereof) exempt from the payment of real property tax in accordance with the provisions of this act and D.C. Official Code § 47-1002(29).

(8) "PILOT period" means the period during which a PILOT parcel (or a portion thereof) will be exempt from the payment of real property tax.

Sec. 3. PILOT agreements.

(a)(1)(A) Subject to approval by the Council under section 4(a) or (b), the Mayor may enter into a PILOT agreement for the purpose of financing the development costs of one or more projects which qualify under section 490 of the Home Rule Act. Except as otherwise provided in the PILOT agreement, payments in lieu of taxes made pursuant to the PILOT agreement may be assigned or pledged in connection with the Bonds authorized to be issued

under this act.

(B) As an inducement to enter into the PILOT agreement, a portion of the payments in lieu of taxes pursuant to the PILOT agreement may be used in accordance with the terms of the PILOT agreement for any other use which will be deemed to contribute to the health, education, safety, or welfare of, or the creation or preservation of jobs for, residents of the District, or to economic development of the District, including the development, redevelopment, and expansion of business, commerce, housing, or tourism, or the provision of necessary or desirable public infrastructure improvements.

(2) A PILOT agreement pursuant to this subsection shall include:

(A) The description of the PILOT parcel;

(B) The date, or the manner of determining the date, on which the exemption from real property tax for the PILOT parcel shall commence and terminate;

(C) The party who shall be obligated to make payments in lieu of taxes;

(D) The requirement that payments in lieu of taxes shall be paid in accordance with the PILOT agreement;

(E) The project (or projects) to be financed with the proceeds of Bonds;

(F) The terms and conditions of the issuance of the Bonds to finance the project (or projects) and the application of the Bond proceeds, including the conditions which must be satisfied prior to the issuance of the Bonds and the uses and application of the Bond proceeds; and

(G) If a portion of the payments in lieu of taxes pursuant to the PILOT agreement may be used other than for the purpose of financing any project which qualifies under section 490 of the Home Rule Act:

(i) The portion of payments in lieu of taxes which shall secure the Bonds;

(ii) The portion of payments in lieu of taxes shall be applied to the other use; and

(iii) The application of the portion of payments in lieu of taxes set forth in sub-subparagraph (ii) of this subparagraph.

(b)(1) Subject to approval by the Council under section 4(b), the Mayor may enter into a PILOT agreement for any other use which will be deemed to contribute to the health, education, safety, or welfare of, or the creation or preservation of jobs for, residents of the District, or to economic development of the District, including the development, redevelopment, and expansion of business, commerce, housing, or tourism, or the provision of necessary or desirable public infrastructure improvements.

(2) A PILOT agreement pursuant to this subsection shall include:

(A) The description of the PILOT parcel;

(B) The date, or the manner of determining the date, on which the exemption from real property tax for the PILOT parcel shall commence and terminate;

(C) The party who shall be obligated to make the payments in lieu of taxes;

(D) The requirement that the payments in lieu of taxes shall be paid in accordance with the PILOT agreement; and

(E) The use for which the payments in lieu of taxes shall be applied, including a detailed delineation of the expenditures to be made.

(c) Notwithstanding any of the provisions of this act, a PILOT agreement shall not result in a reduction of the total assessed value of real property subject to taxation under Chapter 8 of Title 47 of the District of Columbia Official Code.

(d) A PILOT Agreement shall be an encumbrance upon, and run with, the PILOT Parcel. A memorandum of the PILOT Agreement shall be recorded in the land records of the District.

Sec. 4. Approval by the Council.

(a)(1) The issuance of Bonds, including the execution of the PILOT agreement and other financing agreements and documents, under section 3(a)(1)(A) shall be subject to the approval of the Council. The Mayor shall transmit to the Council a proposed resolution to approve the issuance of Bonds, the maximum amount of the Bonds to be issued, and the PILOT agreement for a 60-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. The proposed resolution shall include:

(A) The terms of the Bonds to be issued;

(B) The terms of the PILOT agreement, including a statement that the proposed form of the PILOT agreement has been transmitted to the Council;

(C)(i) The amount of the payments in lieu of taxes; and

(ii) The amount of the real property taxes which would be paid in the absence of the PILOT agreement if the proposed project (or projects) were completed;

(D) The public benefits to be derived from the project (or projects) to be financed by the Bonds and the likelihood that project (or projects) would be completed in the absence of the approval of the transaction;

(E) If a portion of the payments in lieu of taxes pursuant to the PILOT agreement may be used other than for the purpose of financing a project which qualifies under section 490 of the Home Rule Act, the public benefits to be derived from the use and the likelihood that project would be completed in the absence of the approval of the transaction;

(F)(i) Whether conventional, or alternative forms of, financing are available;

(ii) Whether best efforts have been made to secure conventional, or alternative forms of, financing; and

(iii) Why conventional, or alternative forms of, financing is impracticable or undesirable;

(G) If a project to be financed by the Bonds (which, for the purposes of this paragraph, shall include an ownership interest in property which will benefit from the project to be financed by the Bonds) or other use is to be funded or financed is to be operated or held for profit:

(i) Whether the District will have an ownership interest or profits participation; and

(ii) If the District will not have an ownership interest or profits participation, why an ownership interest or profits participation is impracticable or undesirable; and

(H) A financial analysis prepared by the Office of the Chief Financial Officer, which financial analysis shall consist of the following:

(i) A report delineating the amount of the payments in lieu of taxes, including the amount of the real property taxes which would be paid in the absence of the PILOT agreement, if the proposed project (or projects) were completed;

(ii) The effect of the PILOT Agreement on the total assessed value of real property subject to taxation under Chapter 8 of Title 47 of the District of Columbia Official Code; and

(iii) The effect of the PILOT Agreement on the budget and financial plan.

(2) If the Council does not approve or disapprove the transaction within the 60-day review period, the proposed resolution shall be deemed disapproved.

(3) If the proposed terms of the transaction shall change in any material respect, including the terms of the proposed PILOT agreement which was transmitted to the Council, a new proposed resolution which complies with paragraph (1) of this subsection shall be submitted to the Council for approval in accordance with this section.

(b)(1) The execution of the PILOT agreement, and any related agreements and documents, pursuant to section 3(a)(1)(B) or (b) shall be subject to the approval of the Council by act.

(2) The act shall include the following findings:

(A) The terms of the PILOT agreement, including a statement that the proposed form of the PILOT agreement has been transmitted to the Council;

(B) The terms of any other agreement or document, or any subsidy or assistance which will be provided, in connection with the PILOT agreement or proposed use;

(C)(i) The amount of the payments in lieu of taxes; and

(ii) The amount of the real property taxes which would be paid in the absence of the PILOT agreement if the expenditures for the proposed use were made (and the proposed project (or projects) for which a subsidy or assistance will be received, if any, were completed);

(D) The public benefits to be derived from the proposed use (and any project (or projects) for which a subsidy or assistance will be received) and the likelihood that the proposed project would be completed (and the project (or projects) for which a subsidy or assistance will be received, if any, would be completed) in the absence of the approval of the transaction;

(E)(i) Whether best efforts have been made to secure other means of achieving the proposed use; and

(ii) Why the other means of achieving the proposed use is impracticable or undesirable;

(F) If a proposed use (which, for the purposes of this paragraph, shall an include an ownership interest in property which will benefit from the proposed use (or a project for which a subsidy or assistance will be received, if any)) is to be operated or held for profit:

(i) Whether the District will have an ownership interest or profits participation; and

(ii) If the District will not have an ownership interest or profits participation, why an ownership interest or profits participation is impracticable or undesirable; and

(G) A financial analysis prepared by the Office of the Chief Financial Officer, which financial analysis shall consist of the following:

(i) A report delineating the amount of the payments in lieu of taxes, including the amount of the real property taxes which would be paid in the absence of the PILOT agreement, if the proposed project (or projects) were completed;

(ii) The effect of the PILOT Agreement on the total assessed value of real property subject to taxation under Chapter 8 of Title 47 of the District of Columbia Official Code; and

(iii) The effect of the PILOT Agreement on the budget and financial plan.

(3) If the proposed terms of the transaction shall change in any material respect, including the terms of the proposed PILOT agreement which was transmitted to the Council, a new act which complies with paragraph (1) of this subsection shall be required to approve the transaction in accordance with this section.

Sec. 5. Payment and collection of payments in lieu of taxes.

(a) The owner of the PILOT parcel shall make the payments in lieu of taxes to the District at the same time and in the same manner as real property taxes under Chapter 8 of Title 47 of the District of Columbia Official Code; provided, that in connection with issuance of Bonds, the PILOT may be paid for the benefit of the holders of the Bonds to the bond trustee or other persons as provided in the financing documents for the purposes set forth therein; provided further, that if such provisions are included in the financing documents, the PILOT shall constitute a lien against the property on which the PILOT was assessed to the same extent as a real property tax lien and shall be deemed to be a tax within the meaning of 11 U.S.C. §§ 502(b), 505, and 507(a)(8)(B).

(b) Payments in lieu of taxes shall be subject to the same penalty and interest provisions as unpaid real property tax under the Chapter 8 of Title 47 of the District of Columbia Official Code.

(c) A lien for unpaid payments in lieu of taxes, including penalty and interest, shall attach to the PILOT parcel in the same manner and with the same priority as a lien for delinquent real property tax under Chapter 13A of Title 47 of the District of Columbia Official

Code.

(d) The unpaid payments in lieu of taxes may be collected in accordance with Chapter 13A of Title 47 of the District of Columbia Official Code.

Sec. 6. Bond authorization.

The issuance of Bonds in accordance with this act is authorized. The aggregate principal amount of Bonds which may be issued under this act shall not exceed $250 million.

Sec. 7. Details of Bonds.

(a) Subject to the terms of the resolution authorizing issuance of the Bonds, the Mayor may take any action necessary or appropriate in accordance with this act in connection with the preparation, execution, issuance, sale, delivery, and payment of Bonds, including determinations of:

(1) The final form, content, designation, and terms of the Bonds, including a determination that the Bonds may be issued in certificate or book entry form;

(2) The principal amount of the Bonds to be issued and denominations of the Bonds;

(3) The rate or rates of interest or the method for determining the rate or rates of interest on the Bonds;

(4) The date or dates of issuance, sale, and delivery of, and the payment of interest on the Bonds, and the maturity date or dates of the Bonds;

(5) The terms under which the Bonds may be paid, optionally or mandatorily redeemed, accelerated, tendered, called, or put for redemption, repurchase, or remarketing before their respective stated maturities;

(6) Provisions for the registration, transfer, and exchange of each series of Bonds and the replacement of mutilated, lost, stolen, or destroyed Bonds;

(7) The creation of any reserve fund, sinking fund, or other fund with respect to the Bonds;

(8) The time and place of payment of the Bonds;

(9) Procedures for monitoring the use of the proceeds received from the sale of the Bonds to ensure that they are properly applied to the project and used to accomplish the purposes of this act; and

(10) Actions necessary to qualify the Bonds under blue sky laws of any jurisdiction where the Bonds are marketed.

(b) The Bonds shall contain a legend, which shall provide that the Bonds shall be special obligations of the District, shall be nonrecourse to the District, shall not be a pledge of, and shall not involve, the faith and credit or the taxing power of the District (other than the PILOT or any other security authorized by this act), shall not constitute a debt of the District, and shall not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act.

(c) The Bonds shall be executed in the name of the District and on its behalf by the

manual or facsimile signature of the Mayor. The Mayor's execution and delivery of the Bonds shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the same.

(d) The official seal of the District, or facsimile of it, shall be impressed, printed, or otherwise reproduced on the Bonds.

(e) The Bonds may be issued at any time or from time to time in one or more issues and in one of more series.

Sec. 8. Security for Bonds.

(a) A series of Bonds may be secured by a trust agreement or trust indenture between the District and a corporate trustee having trust powers, or secured by a loan agreement or other instrument giving power to a corporate trustee by means of which the District may do the following:

(1) Make and enter into any and all covenants and agreements with the trustee or the holders of the Bonds that the District may determine to be necessary or desirable covenants and agreements as to:

(A) The application, investment, deposit, use, and disposition of the proceeds of Bonds and the other monies, securities, and property of the District;

(B) The assignment by the District of its rights in any agreement;

(C) Terms and conditions upon which additional Bonds of the District may be issued;

(D) Providing for the appointment of a trustee to act on behalf of bondholders and abrogating or limiting the rights of the bondholders to appoint a trustee; and

(E) Vesting in a trustee for the benefit of the holders of Bonds, or in the bondholders directly, such rights and remedies as the District shall determine to be necessary or desirable;

(2) Pledge, mortgage or assign monies, agreements, property, or other assets of the District, either presently in hand or to be received in the future, or both;

(3) Provide for bond insurance and letters of credit, or otherwise enhance the credit of and security for the payment of the Bonds; and

(4) Provide for any other matters of like or different character that in any way affect the security for or payment of the Bonds.

(b) The Bonds are declared to be issued for essential public and governmental purposes. The Bonds and the interest thereon and the income therefrom, and all monies pledged or available to pay or secure the payment of the Bonds, shall at all times be exempt from taxation by the District, except for estate, inheritance, and gift taxes.

(c) The District does hereby pledge to and covenant and agree with the holders of any Bonds that, subject to the provisions of the financing documents, the District will not limit or alter the revenues pledged to secure the Bonds or the basis on which such revenues are collected or allocated, will not impair the contractual obligations of the District to fulfill the terms of any agreement made with the holders of the Bonds, will not in any way impair the

rights or remedies of the holders, and will not modify in any way, with respect to the Bonds, the exemptions from taxation provided for in this act, until the Bonds, together with interest thereon, with interest on any unpaid installment of interest and all costs and expenses in connection with any suit, action or proceeding by or on behalf of the holders, are fully met and discharged. This pledge and agreement of the District may be included as part of the contract with the holders of any of its Bonds. This subsection shall constitute a contract between the District and the holders of the Bonds authorized by this act. To the extent that any acts or resolutions of the Council may be in conflict with this act, this act shall be controlling.

(d) Consistent with section 490(a)(4)(B) of the Home Rule Act and, notwithstanding Article 9 of Title 28 of the District of Columbia Official Code:

(1) A pledge made and security interest created in respect of any Bonds or pursuant to any related financing document shall be valid, binding, and perfected from the time the security interest is created, with or without physical delivery of any funds or any property and with or without any further action;

(2) The lien of the pledge shall be valid, binding, and perfected as against all parties having any claim of any kind in tort, contract, or otherwise against the District, whether or not such party has notice; and

(3) The security interest shall be valid, binding, and perfected whether or not any statement, document, or instrument relating to the security interest is recorded or filed.

Sec. 9. Default.

If there shall be a default in the payment of the principal of, or interest on, any Bonds of a series after the principal or interest shall become due and payable, whether at maturity or upon call for redemption, or if the District shall fail or refuse to carry out and perform the terms of any agreement with the holders of any of the Bonds, the holders of the Bonds, or the trustee appointed to act on behalf of the holders of the Bonds, may, subject to the provisions of the financing documents, do the following:

(1) By action, writ, or other proceeding, enforce all rights of the holders of the Bonds, including the right to require the District to carry out and perform the terms of any agreement with the holders of the Bonds or its duties under this act;

(2) By action, require the District to account as if it were the trustee of an express trust;

(3) By action, petition to enjoin any acts or things that may be unlawful or in violation of the rights of the holders of the Bonds; and

(4) Declare all the Bonds due and payable, whether or not in advance of maturity and, if all the defaults be made good, annul the declaration and its consequences.

Sec. 10. Liability.

(a) The members of the Council, the Mayor, or any person executing Bonds shall not be liable personally on the Bonds by reason of the issuance thereof.

(b) Notwithstanding any other provision of this act, the Bonds shall not be general

obligations of the District and shall not be in any way a debt or liability of the District within the meaning of any debt or other limit prescribed by law. The full faith and credit or the general taxing power of the District (other than the PILOT or other security authorized under this act) shall not be pledged to secure the payment of any Bonds.

Sec. 11. Prior legislation.

This act shall not adversely affect any actions taken, agreements entered into, pledge of security made, or Bonds issued prior to the effective date of this act.

Amend § 42-1102

Sec. 12. Section 302(3) of the District of Columbia Deed Recordation Tax Act, approved March 2, 1962 (76 Stat. 11; D.C. Official Code § 42-1102(3)), is amended by striking the phrase "for recordation;" and inserting the phrase "for recordation; provided further, that this exemption shall not apply to property which is exempt under § 47-1002(29);"

Sec. 13. Title 47 of the D.C. Official Code is amended as follows:

Amend § 47-902

(a) Section 47-902(3) is amended by striking the phrase "District of Columbia);" and inserting the phrase "District of Columbia); provided further, that this exemption shall not apply to property which is exempt under § 47-1002(29);"

Amend § 47-1002

(b) Section 47-1002 is amended as follows:

(1) Paragraph (27) is amended by striking the phrase "; and" at the end of the paragraph and inserting a semi-colon in its place.

(2) Paragraph (28) is amended by striking the period at the end of the paragraph and inserting the phrase "; and" in its place.

(3) A new paragraph (29) is added to read as follows:

"(29) Except as provided in the PILOT Agreement, property, including land, any improvements thereon, and any possessory interests therein, for which payments in lieu of taxes are being made under a PILOT agreement pursuant to the Payments in Lieu of Taxes Act of 2004, passed on 2nd reading on December 7, 2004 (Enrolled version of Bill 15-882), during the term of the PILOT agreement.".

Sec. 14. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 15. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved

December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
January 4, 2005

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-690

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANAURY 4, 2004

Codification District of Columbia Official Code

2001 Edition

2005 Winter Supp.

West Group Publisher

To amend Chapter 46 of Title 47 of the District of Columbia Official Code to provide for tax exemptions for the Jenkins Row development project located in Square 1045, Lots 132, 133, 134, 135, 136, 137, 834, 835, 838, and 839.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Jenkins Row Economic Development Act of 2004".

Sec. 2. Chapter 46 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding the section designation "47-4603. Jenkins Row development project–tax exemptions." at the end.

(b) A new section 47-4603 is added to read as follows:

New § 47-4603

"47-4603. Jenkins Row development project–tax exemptions .

"(a) For the purposes of this section, the term:

"(1) "Developer Sponsor" means JPI Apartment Development, LP, its successors, affiliates, and assigns.

"(2) "Jenkins Row project" means the acquisition, development, construction, installation, and equipping, including the financing, refinancing, or reimbursing of costs incurred therefor, of the mixed-use apartment house and garage project located on the Jenkins Row property, consisting of:

"(A) Approximately a 247-unit residential condominium/apartment house;

"(B) Approximately 52,000 square feet of retail space;

"(C) A garage for approximately 400 to 500 cars; and

"(D) Other ancillary improvements, including an associated supermarket.

"(3) "Jenkins Row property" means the real property, including any improvements thereon, located in Square 1045, Lots 132, 133, 134, 135, 136, 137, 834, 835, 838, and 839 (or as the land for such lots may be subdivided into a record lot or lots or assessment and taxation lots in the future).

"(b) The Jenkins Row project shall be exempt from the tax imposed by §§ 42-1102 and

47-903.

"(c) The sales and rental of tangible personal property to be incorporated in or consumed in the Jenkins Row project, whether or not the sale, rental, or nature of the material or tangible personal property is incorporated as a permanent part of the Jenkins Row project or the Jenkins Row property, shall be exempt from the tax imposed by § 47-2002.

"(d)(1) The Jenkins Row property shall be exempt from the tax imposed by Chapter 8.

"(2) The real property tax exemption granted by paragraph (1) of this subsection shall only apply for the 10 consecutive real property tax years beginning in the tax year in which the Developer Sponsor begins development on the Jenkins Row property.

"(e) The exemptions pursuant to subsections (c) and (d) of this section shall be in addition to, and not in lieu of, any other tax relief or assistance from any other source applicable to the Jenkins Row Project or the Jenkins Row property and shall not exceed, in the aggregate, $3 million.

"(f) This section shall not prevent or restrict the Developer Sponsor from utilizing any other tax, development, or other economic incentives available to the Jenkins Row project or the Jenkins Row property, including an associated supermarket, which other tax, development, or other economic incentives shall include the supermarket tax incentives set forth in Chapter 38.".

Sec. 3. Inclusion in the budget and financial plan.

This act shall take effect subject to the inclusion of its fiscal effect in an approved budget and financial plan.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813, D.C. Official Code §1-206.02(c)(3)).

Sec. 5. Effective date.

This act shall take effect following approval of the Mayor (or in the event of a veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24,

ENROLLED ORIGINAL

1973 (87 Stat. 813; D.C. Official Code §1-206.02 (c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
January 4, 2005

FEB 18 2005

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-691

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 29, 2004

Codification District of Columbia Official Code

2001 Edition

2005 Winter Supp.

West Group Publisher

To amend the Amendments to an Act to Provide for Voluntary Apprenticeship in the District of Columbia Act of 1978 to require registration of apprenticeship programs, to require contractors who contract with the District of Columbia government to hire District residents to perform a certain percentage of apprenticeship hours, to provide for the imposition of penalties for those contractors who fail to comply with this requirement, to require that funds collected or the payment of penalties be remitted to the District of Columbia Public Schools for the support of vocational education programs; and to amend the First Source Employment Agreement Act of 1984 to exempt nonprofit organizations with 50 or fewer employees from the First Source requirements.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Apprenticeship Requirements Amendment Act of 2004".

Amend § 32-1431

Sec. 2. Section 5 of the Amendments to An Act To Provide For Voluntary Apprenticeship in the District of Columbia Act of 1978, effective March 6, 1979 (D.C. Law 2-156; D.C. Official Code § 32-1431), is amended to read as follows:

"(a)(1) All prime contractors and subcontractors who contract with the District of Columbia government to perform construction, renovation work, or information technology work with a single contract, or cumulative contracts, of at least $500,000, let within a 12-month period shall be required to register an apprenticeship program with the District of Columbia Apprenticeship Council; and

"(2) All beneficiaries of projects in excess of $1 million funded in whole or in part with funds which, in accordance with a federal grant or otherwise, the District of Columbia government administers, and in which the District of Columbia is a signatory to any agreement of a contractual nature, shall be required to register an apprenticeship program with the District of Columbia Apprenticeship Council.

"(b) Beginning July 1, 2005, 35% of all apprenticeship hours performed pursuant to apprenticeship programs required by subsection (a) of this section shall be performed by District

of Columbia residents.

"(c)(1) Any prime contractor, subcontractor, or beneficiary that fails to comply with subsection (b) of this section shall be subject to a monetary fine in the amount of 5% of the direct and indirect labor costs of the contract.

"(2) Fines for a violation of subsection (b) of this section shall be imposed by the Contracting Officer. The Contracting Officer may waive or reduce any fine if the Contracting Officer finds that:

" (A) A good faith effort to comply with the requirements of this section has been demonstrated by the prime contractor, subcontractor, or the beneficiary;

"(B) The prime contractor, subcontractor, or the beneficiary enters into a special workforce development training or placement arrangement with the Department of Employment Services or the DC Workforce Investment Council;

"(C) The Department of Employment Services certifies that there is an insufficient number of District residents in the labor market possessing the skills required for the apprenticeship positions needed under the contract; or

"(D) The prime contractor, subcontractor, or the beneficiary is located outside the Washington Standard Metropolitan Statistical Area and none of the contract work is performed inside the Washington Standard Metropolitan Statistical Area, which is comprised of the District of Columbia, Calvert, Charles, Howard, Montgomery and Prince George's Counties in Maryland, Arlington, Fairfax, Loudon, Prince William and Stafford Counties in Virginia and the cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park in Virginia.

"(3) Any fine resulting from a violation of this subsection shall be remitted to the District of Columbia Public Schools to be used solely for the support of vocational education programs, subject to appropriations by Congress.

"(d) The prime contractor, subcontractor, or the beneficiary shall submit to the Department of Employment Services, for every month following the execution of the contract, a compliance report for the project that includes:

"(1) The apprenticeship programs required by subsection (a) of this section that are registered with the District of Columbia Apprenticeship Council;

"(2) The total number of apprenticeship hours required for the project;

"(3) The total number of apprenticeship hours performed by District of Columbia residents; and

"(4) The total number of apprentices hired for the reporting period and the cumulative total number of apprentices hired, including, for each, the:

"(A) Name;

"(B) Residence;

"(C) Apprenticeship position; and

"(D) Hire date.

"(e) Nonprofit organizations with 50 employees or less shall be exempt from subsections

(a) and (b) of this section.

"(f) For purposes of this section, the term:

"(1) "Beneficiary" means a signatory to a contract for a project in excess of $1 million funded in whole or in part with funds which, in accordance with a federal grant or otherwise, the District of Columbia government administers, and in which the District of Columbia is a signatory to any agreement of a contractual nature.

"(2) "Information technology work" means the occupations of computer programmer, programmer analyst, desktop specialist, technical support specialist, data base specialist, network support specialist, and any other related occupation as the District of Columbia Apprenticeship Council may designate by regulation.".

Amend § 2-219.03

Sec. 3. Section 4(f) of the First Source Employment Agreement Act of 1984, effective June 29, 1984 (D.C. Law 5-93; D.C. Official Code § 2-219.03(f)), is amended to read as follows:

"(f) Nonprofit organizations with 50 employees or less shall be exempt from subsection (e) of this section.".

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (84 Stat. 813; D.C. Official Code § 1-206.02 (c)(3)).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02 (c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
December 29, 2004

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-692

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 29, 2004

Codification District of Columbia Official Code

2001 Edition

2005 Winter Supp.

West Group Publisher

To amend the Minimum Wage Act Revision Act of 1992 to increase the minimum wage in the District of Columbia.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Minimum Wage Amendment Act of 2004".

Amend § 32-1003

Sec. 2. Section 4 of The Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C. Law 9-248; D.C. Official Code § 32-1003), is amended to read as follows:

(a) Subsection (a) is amended as follows:

"(a)(1) As of January 1, 2005, the minimum wage required to be paid to any employee by any employer in the District of Columbia shall be $6.60 an hour, or the minimum wage set by the United States government pursuant to the Fair Labor Standards Act (29 U.S.C. § 206 *et seq.*) ("Fair Labor Standards Act"), plus $1, whichever is greater.

"(2) As of January 1, 2006, the minimum wage required to be paid to any employee by any employer in the District of Columbia shall be $7 an hour, or the minimum wage set by the United States government pursuant to the Fair Labor Standards Act, plus $1, whichever is greater.".

(b) Subsection (f) is amended to read as follows:

"(f) As of January 1, 2005, the minimum wage required to be paid by any employer in the District of Columbia to any employee who receives gratuities shall be $2.77 an hour, provided that the employee actually receives gratuities in an amount at least equal to the difference between the hourly wage paid and the minimum wage as set by subsection (a) of this section.".

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (84 Stat. 813; D.C. Official Code § 1-206.02 (c)(3)).

ENROLLED ORIGINAL

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02 (c)(1)), and publication in the District of Columbia Register.

Linda W. Cropp

Chairman
Council of the District of Columbia

Anthony A. Williams

Mayor
District of Columbia
APPROVED
December 29, 2004

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-693

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 4, 2005

Codification District of Columbia Official Code

2001 Edition

2005 Winter Supp.

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To amend the Retail Service Station Amendment Act of 1976 to make permanent the moratorium on conversion of full service retail service stations, to extend divorcement to jobbers, and to increase the penalty for violations.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Retail Service Station Amendment Act of 2004".

Sec. 2. The Retail Service Station Act of 1976, effective April 19, 1977 (D.C. Law 1-123; D.C. Official Code § 36-301.01 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 36-301.01) is amended by adding a new subsection (f-1) to read as follows:

Amend § 36-301.01

"(f-1) "Jobber" means a wholesale supplier or distributor of motor fuel.".

(b) Section 3-102 (D.C. Official Code § 36-302.02) is amended to read as follows:

Amend § 36-302.02

"(a) After April 19, 1977, no jobber, producer, refiner, or manufacturer of motor fuels as the terms are defined in section 2(f-1), (i), and (l), shall open a retail service station in the District of Columbia, irrespective of whether or not the retail service station will be operated under a trademark owned, leased, or otherwise controlled by the jobber, producer, refiner, or manufacturer, unless the retail service station is to be operated by a person or entity other than.

"(1) An employee, servant, commissioned agent, or subsidiary of the jobber, producer, refiner, or manufacturer; or

"(2) A person or entity who operates or manages the retail service station under a contract with the jobber, producer, refiner, or manufacturer which provides for a fee arrangement.

"(b) After January 1, 1981, no jobber, producer, refiner, or manufacturer of motor fuels, as the terms are defined in section 2(f-1), (i), and (l), shall operate a retail service station in the District of Columbia, irrespective of whether or not the retail service station will be operated under a trademark owned, leased, or otherwise controlled by the jobber, producer, refiner, or manufacturer; with employees, servants, commissioned agents, or subsidiaries of the jobber, producer, refiner, or manufacturer; or with a person or entity who operates or manages the retail

service station under a contract with the jobber, producer, refiner, or manufacturer which provides for a fee arrangement; provided, that any entity, which, as of October 9, 1979, operates a retail service station in the District of Columbia, and of which a jobber, producer, refiner, or manufacturer, as defined in section 2(f-1)and (l), only has no more than 49% voting control, may continue to operate the station after January 1, 1981, so long as no jobber, producer, refiner or manufacturer, as defined in section 2(f-1) and (l), only has more than 49% voting control of the entity.

"(c) Any jobber in violation of subsections (a) or (b) of this subsection as of the effective date of the Retail Service Station Amendment Act of 2004, passed on 2nd reading on December 7, 2004 (Enrolled version of Bill 15-914), shall have 2 years following the effective date to come into compliance.".

Amend § 36-302.05

(c) Section 3-105(b) (D.C. Official Code § 36-302.05(b)) is amended by striking the phrase "$300" and inserting the phrase "$1,000" in its place.

Amend § 36-304.01

(d) Section 5-301 (D.C. Official Code § 36-304.01) is amended as follows:

(1) Subsection (b) is amended by striking the phrase "until October 1, 2005".

(2) Subsection (c) is amended by striking the phrase "until October 1, 2005".

(3) Subsection (e)(4) is repealed.

(4) Subsection (g) is amended to read as follows:

"(g)(1) Any person, including the principal officers or agents of a corporation or association, who falsely certifies a petition for exemption, or willfully or knowingly fails to provide information required by this act, or intentionally provides misleading information required by this act, upon conviction, shall be subject to a fine of not less than $2,000, but not more than $5,000, for each offense.

"(2) Any owner or operator of a retail service station who converts or causes the conversion of the retail service station without procuring an exemption pursuant to this section shall be guilty of a civil infraction, subject to a penalty of $20,000, and the license to operate the retail service station shall be suspended or revoked until such time as operation comes into compliance with this act. The Mayor may adjust the fine by rulemaking.

"(3) Any owner or operator of a retail service station which, as of the effective date of the Retail Service Station Amendment Act of 2004, has been converted into a non-full service facility in violation of this section, shall have 90 days to either restore the facility to full service or obtain an exemption from the from the Gas Station Advisory Board pursuant to subsection (d) of this section. Any owner or operator who fails to comply with the provisions of this subsection shall be subject to a penalty of not less than $5,000 per day.".

(5) Subsection (h) is amended by striking the phrase "The Mayor" and inserting the phrase "The District of Columbia Office of Energy, unless another agency is designated by the Mayor" in its place.

(6) New subsections (i) and (j) are added to read as follows:

"(i) The Office of Energy or successor agency, unless the Mayor shall direct otherwise,

ENROLLED ORIGINAL

shall be the agency charged with the civil enforcement of this section. The adjudication of any civil infraction under this section shall be pursuant to the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code § 2-1831.01 *et seq.*).

"(j) The Mayor shall notify the Gas Station Advisory Board of any building or construction permit application filed by or on behalf of an owner or operator of a full service retail service station. The Mayor shall provide a copy of the permit application within 10 days of receipt.".

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Linda W. Cropp
Chairman
Council of the District of Columbia

Anthony A. Williams
Mayor
District of Columbia

APPROVED
JAN 4 2005

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-694

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 29, 2004

Codification District of Columbia Official Code

2001 Edition

2005 Winter Supp.

West Group Publisher

To amend the Free Clinic Assistance Program Act of 1986 to extend the life of the free clinic assistance program until October 1, 2007 and to require the Mayor to establish a working group to study alternatives to the program.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Free Clinic Assistance Program Extension Amendment Act of 2004".

Sec. 2. The Free Clinic Assistance Program Act of 1986, effective September 23, 1986 (D.C. Law 6-155; D.C. Official Code § 1-307.21 *et seq.*), is amended as follows:

(a) A new section 4a is added to read as follows:

"Sec. 4a. Establishment of working group to study program alternatives.

The Mayor shall establish a voluntary working group to study other alternatives to provide professional liability insurance or indemnification under the free clinic assistance program to other organizations, including examining the potential effects of covering clinics through commercial insurance and subsidizing part of the cost of the private insurance for clinics that are ineligible for the program. The working group shall provide a report to the Council no later than 8 months after the effective date of the Free Clinic Assistance Program Extension Amenment Act of 2004, passed on 2nd reading on December 7, 2004 (Enrolled version of Bill 15-915).".

(b) Section 7(b) (D.C. Official Code § 1-307.26), is amended by striking the phrase "September 23, 2004" and inserting the phrase "October 1, 2007" in its place.

Amend § 1-307.26

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

ENROLLED ORIGINAL

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Linda W. Cropp
Chairman
Council of the District of Columbia

Anthony A. Williams
Mayor
District of Columbia
APPROVED
December 29, 2004

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-695

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 29, 2004

Codification District of Columbia Official Code

2001 Edition

2005 Winter Supp.

West Group Publisher

To authorize the issuance of District of Columbia general obligation tax revenue anticipation notes to finance general governmental expenses for the fiscal year ending September 30, 2005.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Fiscal Year 2005 Tax Revenue Anticipation Notes Act of 2004".

Sec. 2. Definitions.

Note, § 1-204.72

For the purposes of this act, the term:

(1) "Additional Notes" means District general obligation revenue anticipation notes described in section 9 that may be issued pursuant to section 472 of the Home Rule Act and that will mature on or before September 30, 2005, on a parity with the notes.

(2) "Authorized delegate" means the City Administrator, the Chief Financial Officer, the Treasurer, or any officer or employee of the executive office of the Mayor to whom the Mayor has delegated any of the Mayor's functions under this act pursuant to section 422(6) of the Home Rule Act.

(3) "Available funds" means District funds required to be deposited with the Escrow Agent, receipts, and other District funds that are not otherwise legally committed.

(4) "Bond Counsel" means a firm or firms of attorneys designated as bond counsel or co-bond counsel from time to time by the Mayor.

(5) "Chief Financial Officer" means the Chief Financial Officer established pursuant to section 424(a)(1) of the Home Rule Act.

(6) "City Administrator" means the City Administrator established pursuant to section 422(7) of the Home Rule Act.

(7) "Council" means the Council of the District of Columbia.

(8) "District" means the District of Columbia.

(9) "Escrow Agent" means any bank, trust company, or national banking association with requisite trust powers and with an office in the District designated to serve in this capacity by the Mayor.

(10) "Escrow Agreement" means the escrow agreement between the District and the Escrow Agent authorized in section 7.

(11) "Home Rule Act" means the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 774; D.C. Official Code § 1-201.01 *et seq.).*

(12) "Mayor" means the Mayor of the District of Columbia.

(13) "Notes" means one or more series of District general obligation revenue anticipation notes authorized to be issued pursuant to this act.

(14) "Receipts" means all funds received by the District from any source, including, but not limited to, taxes, fees, charges, miscellaneous receipts, and any moneys advanced, loaned, or otherwise provided to the District by the United States Treasury, less funds that are pledged to debt or other obligations according to section 9 or that are restricted by law to uses other than payment of principal of, and interest on, the notes.

(15) "Secretary" means the Secretary of the District of Columbia.

(16) "Treasurer" means the Treasurer of the District of Columbia established pursuant to section 424(a)(2) of the Home Rule Act.

Sec. 3. Findings.

The Council finds that:

(1) Under section 472 of the Home Rule Act, the Council may authorize, by act, the issuance of general obligation revenue anticipation notes for a fiscal year in anticipation of the collection or receipt of revenues for that fiscal year. Section 472 of the Home Rule Act provides further that the total amount of general obligation revenue anticipation notes issued and outstanding at any time during a fiscal year shall not exceed 20% of the total anticipated revenue of the District for that fiscal year, as certified by the Mayor as of a date not more than 15 days before each original issuance of the notes.

(2) Under section 482 of the Home Rule Act, the full faith and credit of the District is pledged for the payment of the principal of, and interest on, any general obligation revenue anticipation note.

(3) Under section 483 of the Home Rule Act, the Council is required to provide in the annual budget sufficient funds to pay the principal of, and interest on, all general obligation revenue anticipation notes becoming due and payable during that fiscal year, and the Mayor is required to ensure that the principal of, and interest on, all general obligation revenue anticipation notes is paid when due, including by paying the principal and interest from funds not otherwise legally committed.

(4) The Mayor has advised the Council that, based upon the Mayor's projections of anticipated receipts and disbursements during the fiscal year ending September 30, 2005, it may be necessary for the District to borrow a sum not to exceed $350 million, an amount that does not exceed 20% of the total anticipated revenue of the District for such fiscal year, and to accomplish the borrowing by issuing general obligation revenue anticipation notes in one or more series.

(5) The issuance of general obligation revenue anticipation notes in a sum not to exceed $350 million is in the public interest.

Sec. 4. Note authorization.

(a) The District is authorized to incur indebtedness by issuing the notes pursuant to sections 472 and 482 of the Home Rule Act, in one or more series, in a sum not to exceed $350 million, to finance its general governmental expenses, in anticipation of the collection or receipt of revenues for the fiscal year ending September 30, 2005.

(b) The Mayor is authorized to pay from the proceeds of the notes the costs and expenses of issuing and delivering the notes, including, but not limited to, underwriting, legal, accounting, financial advisory, note insurance or other credit enhancement, marketing and selling the notes, and printing costs and expenses.

Sec. 5. Note details.

(a) The notes shall be known as "District of Columbia Fiscal Year 2005 General Obligation Tax Revenue Anticipation Notes" and shall be due and payable, as to both principal and interest, on or before September 30, 2005.

(b) The Mayor is authorized to take any action necessary or appropriate in accordance with this act in connection with the preparation, execution, issuance, sale, delivery, security for, and payment of the notes, including, but not limited to, determinations of:

(1) The final form, content, designation, and terms of the notes, including any redemptions applicable thereto and a determination that the notes may be issued in book entry form;

(2) Provisions for the transfer and exchange of the notes;

(3) The principal amount of the notes to be issued;

(4) The rate or rates of interest or the method of determining the rate or rates of interest on the notes; provided, that the interest rate or rates borne by the notes of any series shall not exceed in the aggregate 10% per year calculated on the basis of a 365-day year (actual days elapsed); provided, further, that if the notes are not paid at maturity, the notes may provide for an interest rate or rates after maturity not to exceed in the aggregate 15% per year calculated on the basis of a 365-day year (actual days elapsed);

(5) The date or dates of issuance, sale, and delivery of the notes;

(6) The place or places of payment of principal of, and interest on, the notes;

(7) The designation of a registrar, if appropriate, for any series of the notes, and the execution and delivery of any necessary agreements relating to the designation;

(8) The designation of paying agent(s) or escrow agent(s) for any series of the notes, and the execution and delivery of any necessary agreements relating to such designations; and

(9) Provisions concerning the replacement of mutilated, lost, stolen, or destroyed notes.

(c) The notes shall be executed in the name of the District and on its behalf by the manual signature of the Mayor or an authorized delegate. The official seal of the District or a facsimile of it shall be impressed, printed, or otherwise reproduced on the notes. If a registrar is designated, the registrar shall authenticate each note by manual signature and maintain the books of registration for the payment of the principal of, and interest on, the notes and perform other ministerial responsibilities as specifically provided in its designation as registrar.

(d) The notes may be issued at any time or from time to time in one or more issues and in one or more series.

Sec. 6. Sale of the notes.

(a) The notes of any series shall be sold at negotiated sale pursuant to a purchase contract or at competitive sale pursuant to a bid form. The notes shall be sold at a price not less than par plus accrued interest from the date of the notes to the date of delivery thereof. The purchase contract or bid form shall contain the terms that the Mayor considers necessary or appropriate to carry out the purposes of this act. The Mayor's execution and delivery of the purchase contract or bid form shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the notes. The Mayor shall deliver the notes, on behalf of the District, to the purchasers upon receiving the purchase price provided in the purchase contract or bid form.

(b) The Mayor or an authorized delegate may execute, in connection with each sale of the notes, an offering document on behalf of the District, and may authorize the document's distribution in relation to the notes being sold.

(c) The Mayor or an authorized delegate shall take actions and execute and deliver agreements, documents, and instruments (including any amendment of or supplement to any such agreement, document, or instrument) in connection with any series of notes as required by or incidental to:

(1) The issuance of the notes;

(2) The establishment or preservation of the exclusion from gross income for federal income tax purposes of interest on the notes, the treatment of interest on the notes as not constituting an item of tax preference for purposes of the federal alternative minimum tax ("non-AMT"), if the notes are originally issued as non-AMT notes, and the exemption from District income taxation of interest on the notes (except estate, inheritance and gift taxes);

(3) The performance of any covenant contained in this act, in any purchase contract for the Notes, or in any escrow or other agreement for the security thereof;

(4) The provision for securing the repayment of the notes by a letter or line of credit or other form of credit enhancement, and the repayment of advances under any such credit enhancement, including the evidencing of such a repayment obligation with a negotiable instrument with such terms as the Mayor shall determine; or

(5) The execution, delivery, and performance of the Escrow Agreement, a purchase contract, or a bid form for the notes, a paying agent agreement, an agreement relating

to credit enhancement, if any, including any amendments of any of these agreements, documents, or instruments.

(d) The notes shall not be issued until the Mayor receives an approving opinion of Bond Counsel as to the validity of the notes and the establishment or preservation of the exclusion from gross income for federal income tax purposes of the interest on the notes and, if the notes are issued as non-AMT notes, the treatment of such interest as not an item of tax preference for purposes of the federal alternative minimum tax, and the exemption from District income taxation of the interest on the notes (except estate, inheritance, and gift taxes).

(e) The Mayor shall execute a note issuance certificate evidencing the determinations and other actions taken by the Mayor for each issue or series of the notes issued and shall designate in the note issuance certificate the date of the notes, the series designation, the aggregate principal amount to be issued, the authorized denominations of the notes, the sale price, and the interest rate or rates on the notes. The Mayor shall certify in a separate certificate, not more than 15 days before each original issuance of a series, the total anticipated revenue of the District for the fiscal year ending September 30, 2005, and that the total amount of all general obligation revenue anticipation notes issued and outstanding at any time during the fiscal year will not exceed 20% of the total anticipated revenue of the District for the fiscal year. These certificates shall be delivered at the time of delivery of the notes and shall be conclusive evidence of the actions taken as stated in the certificates. A copy of each of the certificates shall be filed with the Secretary to the Council not more than 3 days after the delivery of the notes covered by the certificates.

Sec. 7. Payment and security.

(a) The full faith and credit of the District is pledged for the payment of the principal of, and interest on, the notes when due.

(b) The funds for the payment of the notes as described in this act shall be irrevocably deposited with the Escrow Agent pursuant to the Escrow Agreement. The funds shall be used for the payment of the principal of, and interest on, the notes when due, and shall not be used for other purposes so long as the notes are outstanding and unpaid.

(c) The notes shall be payable from available funds of the District, including, but not limited to, any moneys advanced, loaned or otherwise provided to the District by the United States Treasury, and shall evidence continuing obligations of the District until paid in accordance with their terms.

(d) The Mayor may, without regard to any act or resolution of the Council now existing or adopted after the effective date of this act, designate an Escrow Agent under the Escrow Agreement. The Mayor may execute and deliver the Escrow Agreement, on behalf of the District and in the Mayor's official capacity, containing the terms that the Mayor considers necessary or appropriate to carry out the purposes of this act. A special account entitled "Special Escrow for Payment of District of Columbia Fiscal Year 2005 General Obligation Tax Revenue Anticipation Notes" is created and shall be maintained by the Escrow Agent for the

benefit of the owners of the notes as stated in the Escrow Agreement. Funds on deposit, including investment income, under the Escrow Agreement may not be used for any purposes except for payment of the notes or, to the extent permitted by the Home Rule Act, to service any contract or other arrangement permitted under subsections (k) or (l) of this section, and may be invested only as provided in the Escrow Agreement.

(e) Upon the sale and delivery of the notes, the Mayor shall deposit with the Escrow Agent to be held and maintained as provided in the Escrow Agreement all accrued interest and premium, if any, received upon the sale of the notes.

(f)(1) The Mayor shall set aside and deposit with the Escrow Agent funds in accordance with the Escrow Agreement at the time and in the amount as provided in the Escrow Agreement.

(2) If Additional Notes are issued pursuant to section 9(b), and if on the date set forth in the Escrow Agreement, the aggregate amount of principal and interest payable at maturity on the outstanding notes, including any Additional Notes, less all amounts on deposit, including investment income, under the Escrow Agreement exceeds 90% of the actual receipts of District taxes (other than special taxes or charges levied pursuant to section 481(a) of the Home Rule Act, and taxes, if any, dedicated to particular purposes pursuant to section 490 of the Home Rule Act), for the period August 15, 2005, until September 30, 2005, then beginning on the date set forth in the Escrow Agreement, the Mayor shall promptly, upon receipt by the District, set aside and deposit with the Escrow Agent the receipts received by the District after the date set forth in the Escrow Agreement, until the aggregate amount of principal and interest payable on the outstanding notes, including Additional Notes as described above, is less than 90% of actual receipts of District taxes (other than special tax or charges levied pursuant to section 490 of the Home Rule Act).

(3) The District covenants that it shall levy, maintain, or enact taxes due and payable during August 1, 2005, through September 30, 2005, to provide for payment in full of the principal of, and interest on, the notes when due. The taxes referred to in this paragraph shall be separate from special taxes or charges levied pursuant to section 481(a), or taxes, if any, dedicated to particular purposes pursuant to section 490 of the Home Rule Act.

(4) The District covenants that so long as any of the notes are outstanding, it shall not grant, create, or permit the existence of any lien, pledge, or security interest with respect to its taxes due and payable during the period August 1, 2005, through September 30, 2005, or commit or agree to set aside and apply those tax receipts to the payment of any obligation of the District other than the notes. The taxes referred to in this paragraph shall not include special taxes or charges levied pursuant to section 481(a), or taxes, if any, dedicated to particular purposes pursuant to section 490 of the Home Rule Act, or any real property tax liens created or arising in any fiscal year preceding the issuance of the notes.

(g) Before the 16th day of each month, beginning in August 2005, the Mayor shall review the current monthly cash flow projections of the District, and if the Mayor determines that the aggregate amount of principal and interest payable at maturity on the notes then

outstanding, less any amounts and investment income on deposit under the Escrow Agreement, equals or exceeds 85% of the receipts estimated by the Mayor to be received after such date by the District but before the maturity of the notes, then the Mayor shall promptly, upon receipt by the District, set aside and deposit with the Escrow Agent the receipts received by the District on and after that date until the aggregate amount, including investment income, on deposit with the Escrow Agent equals or exceeds 100% of the aggregate amount of principal of, and interest on, the notes payable at their maturity.

(h) The Mayor shall, in the full exercise of the authority granted the Mayor under the Home Rule Act and under any other law, take actions as may be necessary or appropriate to ensure that the principal of, and interest on, the notes are paid when due, including, but not limited to, seeking an advance or loan of moneys from the United States Treasury if available under then-current law. This action shall include, without limitation, the deposit of available funds with the Escrow Agent as may be required under section 483 of the Home Rule Act, this act, and the Escrow Agreement. Without limiting any obligations under this act or the Escrow Agreement, the Mayor reserves the right to deposit available funds with the Escrow Agent at his or her discretion.

(i) There are provided and approved for expenditure sums as may be necessary for making payments of the principal of, and interest on, the Notes, and the provisions of the District of Columbia Appropriations Act, 2005, if enacted prior to the effective date of this act, relating to short-term borrowings are amended and supplemented accordingly by this section, as contemplated in section 483 of the Home Rule Act.

(j) The notes shall be payable, as to both principal and interest, in lawful money of the United States of America in immediately available or same-day funds at a bank or trust company acting as paying agent, located in the District, and at not more than 2 co-paying agents that may be located outside the District, one of which shall be located in New York, New York. All of the paying agents shall be qualified to act as paying agents under the laws of the United States of America, of the District, or of the state in which they are located, and shall be designated by the Mayor without regard to any other act or resolution of the Council now existing or adopted after the effective date of this act.

(k) In addition to the security available for the holders of the notes, the Mayor is hereby authorized to enter into agreements, including any agreement calling for payments in excess of $1 million during fiscal year 2005, with a bank or other financial institution to provide a letter of credit, line of credit, or other form of credit enhancement to secure repayment of the notes when due. The obligation of the District to reimburse said bank or financial institution for any advances made under any such credit enhancement shall be a general obligation of the District until repaid and shall accrue interest at the rate of interest established by the Mayor not in excess of 15% per year until paid.

(l) The District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code § 2-301.01 *et seq.*), and the Financial Institutions Deposit and Investment Amendment Act of 1997, effective March 18, 1998 (D.C. Law 12-56;

D.C. Official Code § 47-351.01 *et seq.*), shall not apply to any contract which the Mayor may from time to time determine to be necessary or appropriate to place, in whole or in part:

(1) An investment or obligation of the District as represented by the notes;

(2) An investment or obligation or program of investment; or

(3)(A) A contract or contracts based on the interest rate, currency, cash flow, or other basis as the Mayor may desire, including, without limitation, interest rate swap agreements; currency swap agreements; insurance agreements; forward payment conversion agreements; futures; contracts providing for payments based on levels of, or changes in, interest rates, currency exchange rates or stock or other indices; contracts to exchange cash flows or a series of payments; and contracts to hedge payment, currency, rate, spread or similar exposure, including, without limitation, interest rate floors, or caps, options, puts, and calls.

(B) The contracts or other arrangements also may be entered into by the District in connection with, or incidental to, entering into or maintaining any agreement that secures the notes. The contracts or other arrangements shall contain whatever payment, security, terms, and conditions as the Mayor may consider appropriate and shall be entered into with whatever party or parties the Mayor may select, after giving due consideration, where applicable, to the creditworthiness of the counterparty or counterparties, including any rating by a nationally recognized rating agency or any other criteria as may be appropriate. In connection with, or incidental to, the issuance or holding of thenNotes, or entering into any contract or other arrangement referred to in this section, the District may enter into credit enhancement or liquidity agreements, with payment, interest rate, termination date, currency, security, default, remedy, and any other terms and conditions as the Mayor determines. Proceeds of the notes and any money set aside for payment of the notes or of any contract or other arrangement entered into pursuant to this section may be used to service any contract or other arrangement entered into pursuant to this section.

Sec. 8. Defeasance.

(a) The notes shall no longer be considered outstanding and unpaid for the purpose of this act and the Escrow Agreement, and the requirements of this act and the Escrow Agreement shall be deemed discharged with respect to the notes, if the Mayor:

(1) Deposits with an Escrow Agent, herein referred to as the "defeasance escrow agent," in a separate defeasance escrow account, established and maintained by the Escrow Agent solely at the expense of the District and held in trust for the note owners, sufficient moneys or direct obligations of the United States, the principal of, and interest on, which, when due and payable, will provide sufficient moneys to pay when due the principal of, and interest payable at maturity on, all the notes; and

(2) Delivers to the defeasance escrow agent an irrevocable letter of instruction to apply the moneys or proceeds of the investments to the payment of the notes at their maturity.

(b) The defeasance escrow agent shall not invest the defeasance escrow account in any

investment callable at the option of its issuer if the call could result in less than sufficient moneys being available for the purposes required by this section.

(c) The moneys and direct obligations referred to in subsection (a)(1) of this section may include moneys or direct obligations of the United States of America held under the Escrow Agreement and transferred, at the written direction of the Mayor, to the defeasance escrow account.

(d) The defeasance escrow account specified in subsection (a) of this section may be established and maintained without regard to any limitations placed on these accounts by any act or resolution of the Council now existing or adopted after this act becomes effective, except for this act.

Sec. 9. Additional debt and other obligations.

(a) The District reserves the right at any time to: borrow money or enter into other obligations to the full extent permitted by law; secure the borrowings or obligations by the pledge of its full faith and credit; secure the borrowings or obligations by any other security and pledges of funds as may be authorized by law; and issue bonds, notes, including Additional Notes, or other instruments to evidence the borrowings or obligations. The reserved right with regard to notes and Additional Notes issued pursuant to sections 471, 472, and 490 of the Home Rule Act shall be subject to this act. No borrowings or other obligations, including Additional Notes, shall be entered into that would require an immediate set-aside and deposit under section 7(g) applied as of the date of the issuance.

(b)(1) The District may issue Additional Notes pursuant to section 472 of the Home Rule Act that shall mature on or before September 30, 2005, and the District shall covenant to set aside and deposit under the Escrow Agreement, receipts and other available funds for payment of the principal of, and the interest on, the Additional Notes on a parity basis with the notes.

(2) The receipts and available funds referred to in subsection (a) of this section shall be separate from the special taxes or charges levied pursuant to section 481(a), and taxes, if any, dedicated to particular purposes pursuant to section 490 of the Home Rule Act.

(3) Any covenants relating to any Additional Notes shall have equal standing and be on a parity with the covenants made for payment of the principal of, and the interest on, the notes.

(4) If Additional Notes are issued, the provisions of section 7 shall apply to both the notes and the Additional Notes and increase the amounts required to be set aside and deposited with the Escrow Agent.

(5) As a condition precedent to the issuance of any Additional Notes, the Mayor or the authorized delegate shall deliver a signed certificate certifying that the District is in full compliance with all covenants and obligations under this act and the Escrow Agreement, that no set-aside and deposit of receipts pursuant to section 7(g) applied as of the date of issuance is required, and that no set-aside and deposit will be required under section 7(g) applied

immediately after the issuance.

(c) Any general obligation notes issued by the District pursuant to section 471 of the Home Rule Act shall not be scheduled to be due and payable until after the earlier of the following:

(1) The stated maturity date of all outstanding notes and Additional Notes; or

(2) The date an amount sufficient to pay all principal and interest payable at maturity on the notes and the Additional Notes is on deposit with the Escrow Agent.

(d) Revenue notes of the District, which are payable from specified District revenue that is set aside for the payment of the revenue notes and that is included in the amount of receipts estimated by the Mayor, pursuant to section 7(g), to be received after the proposed date of issue of the revenue notes and before the maturity of the notes, shall not be issued if a set-aside and deposit of receipts pursuant to section 7(g) applied as of the proposed date of the issuance of revenue notes would be required. In determining, for purposes of this subsection, whether a set aside and deposit would be required, there shall be excluded from receipts estimated by the Mayor to be received after the proposed date of issuance of revenue notes and before the maturity of the notes an amount equal to the estimated revenues set aside for the payment of revenue notes.

Sec. 10. Tax matters.

The Mayor shall not (1) take any action or omit to take any action, or (2) invest, reinvest, or accumulate any moneys in a manner, that will cause the interest on the notes to be includable in gross income for federal income tax purposes or, if such notes were issued as non-AMT notes, to be treated as an item of tax preference for purposes of the federal alternative minimum tax. The Mayor also shall take all actions necessary to be taken so that the interest on the notes will not be includable in gross income for federal income tax purposes or, if the notes were issued as non-AMT notes, be treated as an item of tax preference for purposes of the federal alternative minimum tax.

Sec. 11. Contract.

This act shall constitute a contract between the District and the owners of the notes. To the extent that any acts or resolutions of the Council may be in conflict with this act, this act shall be controlling.

Sec. 12. District officials.

(a) The elected or appointed officials, officers, employees, or agents of the District shall not be liable personally for the payment of the notes or be subject to any personal liability by reason of the issuance of the notes.

(b) The signature, countersignature, facsimile signature, or facsimile countersignature of any official appearing on the notes shall be valid and sufficient for all purposes, notwithstanding the fact that the official ceases to be that official before delivery of the notes.

Sec. 13. Authorized delegation of authority.

To the extent permitted by the District and federal laws, the Mayor may delegate to any authorized delegate the performance of any act authorized to be performed by the Mayor under this act.

Sec. 14. Maintenance of documents.

Copies of the Notes and related documents shall be filed in the Office of the Secretary of the District of Columbia.

Sec. 15. Information reporting.

(a) Within 3 days after the Mayor's receipt of the transcript of proceedings relating to the issuance of the notes, the Mayor shall transmit a copy of the transcript to the Secretary to the Council.

(b) The Mayor shall notify the Council within 30 days of any action taken under section 7(g).

Sec. 16. Fiscal impact statement.

The Office of the Chief Financial Officer estimates that the fiscal impact of issuing these Tax Revenue Anticipation Notes is as follows:

(1) The debt service expense associated with issuing Tax Revenue Anticipation Notes to fund Fiscal Year 2005 seasonal cash needs in the amount of approximately $250 million is incorporated in the District's proposed Fiscal Year 2005 budget. This act has a not-to-exceed amount of $350 million, as a contingency in the event that the District's actual Fiscal Year 2005 seasonal cash needs exceed the projected cash needs at the time of budget preparation. In that event, the Office of the Chief Financial Officer plans to manage its total debt service expenditures in a manner that keeps such expenditures from exceeding the total debt service budget. As such, there is no additional fiscal impact associated with the passage of this act or the issuance of the notes.

(2) The fiscal impact associated with not passing this act could be an inability of the District to meet numerous operating expenditures during Fiscal Year 2005.

Sec. 17. Effective date.

This act shall take effect upon its enactment (as provided in section 472(d)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 806; D.C. Official Code § 1-204.72(d)(1)).

Linda W. Cropp

Chairman
Council of the District of Columbia

Anthony A. Williams

Mayor
District of Columbia
APPROVED
December 29, 2004

AN ACT
D.C. ACT 15-696

Codification District of Columbia Official Code

2001 Edition

2005 Winter Supp.

West Group Publisher

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 29, 2004

To establish the Low-Income Housing Tax Credit Fund as a nonlapsing fund segregated from the General Fund to be used solely to defray costs incurred by the Department of Housing and Community Development in administering the Low-Income Housing Tax Credit program.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Low-Income Housing Tax Credit Fund Act of 2004".

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) "Administrative costs" means the costs of the Department to administer, manage, and monitor the low-income housing tax credit program, including personnel costs, whether incurred before or after the effective date of this act.

(2) "Department" means the Department of Housing and Community Development.

(3) "Developer" means a person or entity that proposes to cause the construction affordable housing using tax credits provided under the Low-Income Housing Tax Credit Program.

(4) "Fund" means the Low-Income Housing Tax Credit Fund established by section 3.

(5) "Low-Income Housing Tax Credit Program" means the program authorized by section 42 of the Internal Revenue Code.

(6) "User fee" means a fee charged by the Department to a developer in connection with the Low-Income Housing Tax Credit Program, including application, reservation, allocation, and monitoring fees.

Sec. 3. Low-Income Housing Tax Credit Fund.

(a) There is hereby established a nonlapsing fund separate from the General Fund of the District of Columbia, to be known as the Low-Income Housing Tax Credit Fund ("Fund"). All user fees collected under this act, and all interest earned on those user fees, shall be deposited into the Fund, shall be available without regard to fiscal year limitation, and shall not revert to the General Fund of the District of Columbia at the end of any fiscal year or at any other time. The money in the Fund shall be continually available to the Department for the uses and purposes set forth in this act, subject to authorization by the Council and Congress.

(b) Money in the Fund shall be expended by the Department only for administrative costs and for the audit required under subsection (c) of this section.

(c) All income and expenses of the Fund shall be audited annually by the Mayor. The audit report shall be submitted to the Council. The expenses for each audit shall be paid by the Fund.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee print as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day Congressional review as provided in section 602 (c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02 (c)(1)), and publication in the District of Columbia Register.

Linda W. Cropp

Chairman
Council of the District of Columbia

Anthony A. Williams

Mayor
District of Columbia
APPROVED
December 29, 2004

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-697

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 29, 2004

Codification District of Columbia Official Code

2001 Edition

2005 Winter Supp.

West Group Publisher

To amend the District of Columbia Retirement Reform Act of 1979 and the District of Columbia Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998 to exempt restricted transactions by the Retirement Board unless a disapproval resolution is approved by the Council; to permit the Board to invest Fund assets in pooled real estate investment vehicles, or securities backed by real property located in the District of Columbia, Virginia, or Maryland; to authorize the Retirement Board to establish benefits requirements for its employee; and to increase the compensation for Retirement Board members.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Retirement Reform Act Amendment Act of 2004".

Sec. 2 The District of Columbia Retirement Reform Act of 1979, approved November 17, 1979 (93 Stat. 866; D. C. Official Code § 1-701 *et seq.*), is amended as follows:

(a) Section 102 (D.C. Official Code § 1-702) is amended by adding a new paragraph (21) to read as follows: **Amend § 1-702**

"(21) The term "pooled or commingled real estate investment vehicle means any real estate investment structure or conveyance formed for the purpose of combining assets of multiple investors in order to achieve greater diversification than could be achieved by any single investor on a stand-alone basis.".

(b) Section 121 (D.C. Official Code § 1-711)) is amended as follows: **Amend § 1-711**

(1) Subsection (c)(1) is amended by striking the phrase "(beginning with 1998) may not exceed $5,000", and inserting the phrase "may not exceed $10,000" in its place.

(2) Subsection (g)(2) is amended by striking the last sentence, and inserting a new sentence in its place to read as follows:

"Except as provided under subsection (k) of this section, staff appointed by the Board shall be subject to the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*).".

(3) Subsection (k) is amended by adding a new sentence at the end to read as follows:

"The Board shall have exclusive authority to establish by regulation alternative benefits requirements for its employees to insure an efficient system of personnel administration and to recruit and retain highly qualified personnel.".

(c) Section 141 (D.C. Official Code § 1-721) is amended as follows: **Amend § 1-721**

(1) Subsection (a) is amended by striking the lead-in sentence, and inserting a new sentence in its place to read as follows:

"(a) Except as provided in subsection (d) of this section, the assets of the Funds may not be invested in the following:".

(2) Add a new subsection (d) to read as follows:

"(d) The limitations on investments under subsection (a) of this section shall not apply to any of the following investments; provided, that the Board has no discretionary authority for investment decisions in specific geographical regions or political subdivisions, and further provided, that not more than 25% of the interests in pooled or commingled real estate investment vehicles is held by the Fund in:

(1) Pooled or commingled real estate investment vehicles;

(2) Publicly-traded real estate investment trusts and real estate operating companies; or

(3) Pooled or commingled real estate investment vehicles holding pass-through securities that contain mortgages, loans, bonds, notes and other similar instruments issued by private institutions, and that are guaranteed by the federal government or any of its agencies or government-sponsored enterprises.".

Amend § 1-741

(d) Section 181 (D.C. Official Code § 1-741) is amended as follows:

(1) Subsection (h) is amended to read as follows:

"(h) The Board may from time to time avail itself to exemptive relief from all or part of the restrictions imposed by subsections (c) and (d) of this section for administrative exemptions which have been previously granted by the United States Department of Labor. Prior to utilizing exempted transactions, the Board shall hold a public hearing on the proposed exemption. Notice of the time, place, and subject matter of the public hearing shall be published in the D.C. Register at least 15 days in advance of its scheduled date in order to afford interested persons an opportunity to present their views. The proposed exemption shall be published in the D.C. Register and submitted to the Council along with a synopsis of the results of the public hearing, and written findings by the Board that the exemptions are:

"(1) Administratively feasible;

"(2) In the best interests of the funds and of their participants and beneficiaries; and

"(3) Protective of the rights of participants and beneficiaries of these funds.".

(2) A new subsection (h-1) is added to read as follows:

"(h-1) Unless the Council disapproves the proposed exemption submitted under subsection (h) of this section by resolution within 30 days of receipt by the Council, the exemption shall be deemed approved. If a resolution of disapproval has been introduced by at least one member of the Council within the 5-day period (excluding Saturdays, Sundays, and holidays) following its receipt, the period of Council review shall be extended by an additional 15 days (excluding Saturdays, Sundays, and holidays) from the date of its receipt. If the resolution of disapproval has not been approved within the 15-day extended period, the proposed exemption shall be deemed approved.".

Amend § 1-907.01

Sec. 3. Section 131 of the District of Columbia Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998, effective September 18, 1998 (D.C. Law 12-152; D.C. Official Code § 1-907.01), is amended as follows:

(a) Subsection (a) is amended by striking the lead-in sentence and inserting a new sentence in its place to read as follows:

"(a) Except as provided in subsection (c) of this section), the assets of the Funds may not

ENROLLED ORIGINAL

be invested in the following:".

(b) A new subsection (c) is added to read as follows:

"(c) The limitations on investments under subsection (a) of this section shall not apply to any of the following investments; provided, that the Board has no discretionary authority for investment decisions in specific geographical regions or political subdivisions, and further provided, that not more than 25% of the interests in pooled or commingled real estate investment vehicles is held by the Fund in:

"(1) Pooled or commingled real estate investment vehicles;

"(2) Publicly-traded real estate investment trusts and real estate operating companies; or

"(3) Pooled or commingled real estate investment vehicles holding pass-through securities that contain mortgages, loans, bonds, notes and other similar instruments issued by private institutions, and that are guaranteed by the federal government or any of its agencies or government-sponsored enterprises.".

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 2, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Linda W. Cropp
Chairman
Council of the District of Columbia

Anthony A. Williams
Mayor
District of Columbia
APPROVED
December 29, 2004

FEB 18 2005

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-698

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 4, 2005

To order the closing of a portion of a public alley in Square 5196, bounded by Nannie Helen Bouroughs Avenue, N.E., Division Avenue, N.E., and Dean Avenue, N.E., in Ward 7.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Closing of a Portion of Public Alley in Square 5196, S.O. 02-2763, Act of 2004".

Sec. 2. Pursuant to section 201 of the Street and Alley Closing and Acquisition Procedures Act of 1982, effective March 10, 1983 (D.C. Law 4-201; D.C. Official Code § 9-202.01), the Council finds that the portion of the alley system in Square 5196, as shown by the Surveyor's plat filed under S.O. 02-2763, is unnecessary for alley purposes and orders it closed, with title to the land to vest as shown on the surveyor's plat. The approval of the Council of this closing is contingent upon the satisfaction of all conditions set forth in the official file of S.O. 02-2763.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. The Secretary to the Council shall transmit a copy of this act, upon its effective date, to the Office of the Surveyor of the District of Columbia and the District of Columbia Recorder of Deeds.

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

ENROLLED ORIGINAL

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
January 4, 2005

ENROLLED ORIGINAL

AN ACT

D.C. ACT 15-699

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 4, 2005

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To authorize the Mayor to provide up to $2 million to the National Capital Revitalization Corporation to assist in financing costs associated with the redevelopment of the Skyland Shopping Center.

BE IT ENACTED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Skyland Site Acquisition Support Act of 2004".

Sec. 2. Findings.

The Council finds:

(1) The Skyland Shopping Center is rundown, underutilized, and contributes to blight in the Southeast Washington neighborhood.

(2) The National Capital Revitalization Corporation has initiated a redevelopment plan for the site and selected a project developer.

(3) To begin implementation of the redevelopment plan, it is necessary that land parcels be assembled.

(4) The making of a grant to assist in financing the acquisition of parcels at the shopping center for subsequent redevelopment will provide social and economic benefits to residents of the District of Columbia, contribute to community betterment, and further the public interest.

Sec. 3. Authority to provide funds.

The Mayor may provide up to $2 million to the National Capital Revitalization Corporation ("Corporation") to assist the Corporation in financing costs of acquiring land and making improvements on Squares 5632 and 5634, as listed and described in the land records of the District of Columbia, in order to assist in the redevelopment of the Skyland Shopping Center.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,

approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Linda W. Cropp

Chairman
Council of the District of Columbia

Anthony A. Williams

Mayor
District of Columbia
APPROVED
January 4, 2005